

**BILL NO. 99-28  
AS AMENDED**

**COUNTY COUNCIL**

**OF**

**HARFORD COUNTY, MARYLAND**

**BILL NO. 99-28**

Introduced by Council President Hirsch at the request of the County Executive

Legislative Session Day No. 99-19

Date: June 8, 1999

THIS EMERGENCY Ordinance providing for the issuance and sale of up to \$15,000,000 ~~17,000,000~~ "Harford County, Maryland Water Quality Refunding Bonds, Series 1999" ("Bonds"); providing for and approving a Loan Agreement with the Maryland Water Quality Financing Administration (the "Administration"); prescribing the forms of such Bonds and Loan Agreement; providing certain details incident to the sale thereof or the method of determining such details; providing that the Bonds shall be issued on the full faith and credit of the County; providing for disbursement of the proceeds of such Bonds to refund portions of certain of the County's outstanding consolidated public improvement bonds, and water and sewer bonds and to pay costs of issuing such Bonds; providing for the levying of taxes for the payment of the principal of and interest on such Bonds; providing for the private (negotiated) sale of such Bonds to the Administration; providing that the County Council of Harford County, Maryland, by administrative resolution Executive of Harford County, by Executive Order, may determine whether the Bonds should be issued by the County as tax-exempt or taxable Bonds, and the maturities and portions of maturities of consolidated public improvement bonds and water and sewer bonds, which are to be refunded; providing for an escrow deposit agreement; and providing for and determining various matters in connection therewith; and declaring the matters described in this Bill to be of an emergency nature affecting the health, safety and welfare of the citizens of Harford County, Maryland.

By the Council,

Introduced, read first time, ordered posted and public hearing scheduled

on: July 6, 1999

at: 7:00 p.m.

By Order: James E. Massey, Jr. Council Administrator

**PUBLIC HEARING**

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on July 6, 1999, and concluded on July 6, 1999.

James E. Massey, Jr. Council Administrator

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1  
2 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS]  
3 indicate matter deleted from existing law. Underlining indicates language added to Bill by  
4 amendment. Language lined through indicates matter stricken out of Bill by amendment.

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**RECITALS**

Harford County, Maryland (the "County") has heretofore issued the Bonds described in Exhibit A hereto (the "Outstanding Bonds"), which exhibit is incorporated herein by reference and made a part hereof. The original aggregate principal amount and the outstanding aggregate principal amount of each series of the Outstanding Bonds is listed in Exhibit A hereto. The public purposes for which the proceeds of each series of Outstanding Bonds were authorized to be spent, the amounts (or maximum amounts) authorized to be spent for each such public purpose, and the probable average useful life of the projects financed with the proceeds of such series of bonds are specified in (or incorporated by reference into) the Bond Issue Authorization Ordinance for such series specified in Exhibit A hereto (each, a "Bond Ordinance"). Without limiting the generality of the foregoing, a portion of the proceeds of each series of the Outstanding Bonds was used to pay portions of the costs of the Projects described in Exhibit B hereto or to refund bond anticipation notes issued for such purposes, all as more particularly described in Exhibit A hereto. The County has identified the projects financed by the Outstanding Bonds listed in Exhibit B hereto (the "Refunded Bonds") as the Outstanding Bonds issued to finance certain costs of the Projects. The maturities and portions of maturities to be refunded shall be determined by ~~administrative resolution, adopted by the County Council of Harford County, Maryland~~ Executive Order issued by the County Executive of Harford County, Maryland based upon advice of the financial advisor and Bond Counsel of the County.

Section 24 of Article 31 of the Annotated Code of Maryland (1995 Replacement Volume, 1998 Supplement), as amended (the "Refunding Act") provides that a county which has power under any public general or public local law to borrow money and to evidence the borrowing by the issuance of its general obligation bonds, revenue bonds or other evidences of obligation by

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1 whatever name known or source of funds secured, may issue bonds for the purpose of refunding  
2 any of its bonds then outstanding, including the payment of any redemption premium and any  
3 interest accrued or to accrue to the date of redemption, purchase or maturity of the bonds or other  
4 obligations.

5 The County is authorized to borrow money and to evidence the borrowing by the  
6 issuance of its general obligation bonds by Section 5(P) of Article 25A of the Annotated Code of  
7 Maryland (1994 Replacement Volume, 1998 Supplement), as amended ("Article 25A") and  
8 Section 524 of the Harford County Charter (the "Charter").

9 Refunding bonds may be issued under the authority of the Refunding Act for the public  
10 purpose of:

11 (1) Realizing savings to the issuer in the aggregate cost of debt service on  
12 either a direct comparison or present value basis; or

13 (2) Debt restructuring that:

14 (i) In the aggregate effects such a reduction in the cost of debt  
15 service; or

16 (ii) Is determined by the governing body to be in the best  
17 interests of the issuer, to be consistent with the issuer's long-term financial plan, and to realize a  
18 financial objective of the issuer including, improving the relationship of debt service to a source  
19 of payment such as taxes, assessments, or other charges.

20 The Refunding Act further provides that (a) the power to issue refunding bonds under  
21 such section shall be deemed additional and supplemental to the issuer's existing borrowing  
22 power, and (b) the procedures for the issuance of refunding bonds shall be the same as those  
23 applicable to the bonds or other obligations being refunded, except that refunding bonds may be

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1 sold on a negotiated basis without solicitation of bids if the issuer determines in a public meeting  
2 that such procedure is in the public interest. The Refunding Act further provides that, for the  
3 purpose of determining whether refunding bonds issued thereunder are within any debt limitation  
4 applicable to an issuer, the amount of bonds or other obligations to be refunded shall be  
5 subtracted from, and the amount of refunding bonds to be issued shall be added to, the aggregate  
6 of such issuer's outstanding bonds.

7 Pursuant to and in accordance with the Maryland Water Quality Financing Administration  
8 Act, Sections 9-1601 to 9-1622 of the Environmental Article, Annotated Code of Maryland (1997  
9 Replacement Volume, 1998 Supplement), as amended (the "MWQFA Act"), the Maryland Water  
10 Quality Financing Administration (the "Administration") is authorized to make loans to "local  
11 governments" for the purpose of financing all or a portion of the cost of a "wastewater facility" and  
12 to refinance debt obligations of "local governments" if such debt obligations were incurred after  
13 March 7, 1985. The County is a "local government" and each of the Projects is a "wastewater  
14 facility", both as defined in the MWQFA Act, and all of the Refunded Bonds are debt obligations  
15 within the meaning of the MWQFA Act.

16 Section 9-1606 of the MWQFA Act provides as follows:

17 "§9-1606 Loans.  
18  
19

20 (a) *Loan Agreement.* A loan made by the Administration  
21 shall be evidenced by a loan agreement. Loans made from the Water  
22 Quality Fund shall be subject to the provisions of §9-1605(d)(1) of  
23 this article. Loans made from the Drinking Water Loan Fund shall be  
24 subject to the provisions of §9-1605(d)(1) of this subtitle. Subject to  
25 the provisions of any applicable bond resolution, the Administration  
26 may consent to the modification, with respect to rate of interest, time  
27 of payment of any installment of principal or interest, security, or any  
28 other term of any loan agreement or loan obligation. In connection  
29 with any security received by or owned by the Administration,  
30 including any loan obligations, the Administration may commence  
31 any action to protect or enforce the rights conferred upon it by any  
32 law or loan agreement or loan obligation.

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(b) *Issue and sale of loan obligations by borrower.* Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may issue and sell loan obligations to the Administration:

(1) At private sale, without public bidding;

(2) Without regard to any limitations on the denomination of such obligations; and

(3) At any interest rate or cost or at any price that the borrower considers necessary or desirable.

(c) *Payment of fees or charges by borrower.* A borrower may pay any fees or charges necessary to enable the Administration to sell its bonds, including any fees for the insurance of its loan obligations or bonds of the Administration, or to provide any other guarantee, credit enhancement, or additional security for any such loan obligations or bonds.

(d) *Pledge of moneys borrower is entitled to receive from State.* Notwithstanding any other provision of public general or public local law, charter, or ordinance, a borrower may agree with the Administration to pledge any moneys that the borrower is entitled to receive from the State, including the borrower's share of the State income tax, to secure its obligations under a loan agreement. The State Comptroller and the State Treasurer shall cause any moneys withheld under such a pledge to be paid to, or applied at the direction of, the Administration.

(e) *Loan obligation cancelable only upon repayment in full.* Each loan agreement shall contain a provision whereby the borrower acknowledges and agrees that the borrower's loan obligation is cancelable only upon repayment in full and that neither the Administration, the Secretary, nor the Board is authorized to forgive the repayment of all or any portion of the loan, except for loans to disadvantaged communities pursuant to the federal Safe Water Drinking Act."

The Administration has offered to purchase the County's general obligation installment bonds in order to allow the County to refund the Refunded Bonds and pay costs of issuance of such bonds, and the Administration ~~has agreed~~ expects that the interest on such bonds will be excludable from the gross income of the holders thereof for purposes of federal income taxation, provided, however, in the event the Administration agrees and the County Executive of the County by Executive Order as determines, based upon advice of the financial advisor and Bond

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Counsel of the County, interest on the Bonds will not be excludable from the gross income of holders thereof for purposes of federal income taxation.

Public Advisory Associates, Inc., the County's financial advisor (the "County's Financial Advisor") has advised the County that the interest rate on bonds purchased by the Administration is now so attractive that the County should be able to realize significant savings in the aggregate cost of debt service on the Refunded Bonds by selling the Bonds (hereinafter defined) to the Administration and it has recommended that the County sell the Bonds to the Administration as described herein.

Based on the foregoing advice and recommendations of the County's Financial Advisor and the findings set forth in Section 2 hereof, the County Council of Harford County, Maryland (the "County Council") has determined that (a) it is in the best interest of the County (1) to issue and sell its Harford County, Maryland Water Quality Refunding Bonds, Series 1999 (the "Bonds") in the maximum aggregate principal amount of ~~\$15,000,000~~ 17,000,000 (or such lesser principal amount as may be determined as described in Section 3(e) below) to the Administration in order to refund the Refunded Bonds and pay costs of issuance of the Bonds, and (2) to participate thereby in the Administration's Revolving Loan Fund Program; and (b) the probable remaining average useful life of the Projects is more than 25 years, and all of the Bonds shall be fully paid within such probable useful life.

**NOW, THEREFORE, in accordance with the provisions of Section 524 of the Harford County Charter and other applicable provisions of law:**

**SECTION 1. Be it enacted by the County Council of Harford County, Maryland, That** all terms used herein with an initial capital letter and defined in the Recitals hereof and in Exhibits

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A and B hereto and not otherwise defined therein shall have the meanings given such terms therein, unless the context clearly indicates a contrary meaning.

**SECTION 2. Be it further enacted by the County Council of Harford County, Maryland,** That it is hereby found, determined and declared as follows:

(a) The County has heretofore issued each series of the Outstanding Bonds in the original aggregate principal amounts listed in Exhibit A hereto for the public purposes and in the amounts (or maximum amounts) for each such public purpose specified in the Bond Ordinance for such series as set forth in Exhibit A hereto. The outstanding aggregate principal amount of each series of the Outstanding Bonds is also set forth in Exhibit A hereto.

(b) The interest rate under the Administration's Revolving Loan Program is significantly lower than the interest rates on the Refunded Bonds, and the County's Financial Advisor has advised the County that it may be able to realize significant savings in the aggregate cost of debt service on the Refunded Bonds, in each case on both a direct comparison and a present value basis, by issuing (a) the Bonds for the purpose of refunding the Refunded Bonds described in Exhibit B hereto, or maturities or portions of maturities thereof, as determined by ~~administrative resolution adopted by the County Council~~ Executive Order issued by the County Executive of the County; and (b) for the purpose of paying any redemption premium, any interest accrued or to accrue to the applicable dates of maturity or redemption of the Refunded Bonds and the costs of issuing the Bonds.

(c) It is therefore in the best interest of the County to issue the Bonds pursuant to and in accordance with the Charter, Section 5(P) of Article 25A, the MWQFA Act and the Refunding Act, in the maximum aggregate principal amount of ~~\$15,000,000~~ 17,000,000, or such lesser principal amount as may be determined in accordance herewith, for the purpose of

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1 redeeming or paying at maturity the Refunded Bonds specified in Exhibit B hereto, or maturities  
2 or portions of maturities thereof, as determined by ~~administrative resolution adopted by the~~  
3 ~~County Council~~ Executive Order issued by the County Executive of the County; and paying any  
4 redemption premium and any interest accrued and to accrue to the applicable dates of maturity or  
5 redemption of such Refunded Bonds, and (c) paying the costs of issuance of the Bonds.

6 (d) The aggregate principal amount of the Bonds, computed in accordance  
7 with subsection (d) of the Refunding Act, is within the legal limitation on the indebtedness of the  
8 County as set forth in Section 5(P) of Article 25A.

9 (e) In order to achieve the flexibility necessary to structure and market the  
10 Bonds to the Administration and to maximize the savings to the County, it is in the public  
11 interest and the best interest of the County to sell the Bonds on a negotiated basis without  
12 solicitation of bids, and the sale of the Bonds to the Administration by private (negotiated) sale  
13 will provide significant benefits to the County which would not be achieved if the Bonds were  
14 sold at public sale.

15 (f) Interest on the Bonds will be excludable from gross income for purposes  
16 of federal income taxation; unless the County Executive of the County by Executive Order,  
17 upon the advice of the financial advisor and Bond Counsel of the County determines to issue  
18 Bonds on which the interest will not be excludable from gross income for purposes of federal  
19 income taxation and the Administration agrees to purchase taxable Bonds.

20 **SECTION 3. Be it further enacted by the County Council of Harford County,**  
21 **Maryland,** (a) That Harford County, Maryland, a body politic and corporate and a Charter County  
22 of the State of Maryland (the "County"), pursuant to the authority contained in Section 5(P) of  
23 Article 25A, the Charter, the MWQFA Act and the Refunding Act, shall borrow upon the full faith

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1 and credit of the County and shall issue and sell upon the full faith and credit of the County  
2 ~~\$15,000,000~~17,000,000 (or such lesser principal amount as may be determined in accordance with  
3 subsection (e) below) of its bonds in fully-registered form, without coupons. Such bonds shall be  
4 issued in the form of one or more installment bonds, shall be known as the Harford County,  
5 Maryland Water Quality Refunding Bonds, Series 1999 (the "Bonds" and each such bond, a  
6 "Bond") and shall be sold to the Administration by private (negotiated) sale.

7 (b) The date of issue of the Bonds shall be the date of issuance and delivery of  
8 the Bonds (the "Closing Date") and the Bonds shall be dated as of such date of issue.

9 (c) The loan to the County from the Administration (the "Loan") which is  
10 evidenced by the Bonds shall be further evidenced by the Loan Agreement dated as of the Closing  
11 Date between the County and the Administration (the "Loan Agreement"). The Loan Agreement  
12 shall be in substantially the form of the Loan Agreement attached hereto as Exhibit C and made a  
13 part hereof (the "Loan Agreement Form"), and such form is hereby approved as to form and  
14 content. Without limiting the generality of the foregoing, the County shall also pay to the  
15 Administration the annual Administrative Fee (as defined in the Loan Agreement Form).

16 (d) The Bonds shall be in substantially the form of the Bond attached as Exhibit  
17 G to the Loan Agreement Form (the "Bond Form") and such form is hereby approved as to form  
18 and content.

19 (e) (i) The final aggregate principal amount of the Bonds shall be equal to the  
20 sum of (A) the costs of issuance of the Bonds and (B) an amount which will be sufficient to  
21 purchase Government Obligations (hereinafter defined) which will be delivered on the Closing  
22 Date and mature in principal amounts at such times and bear interest at a rate or rates so that  
23 sufficient moneys will be available from such maturing principal and interest and any cash  
24 balance, without reinvestment, (I) to pay at maturity or redeem the maturities of the Refunded  
25 Bonds on the maturity or redemption dates and at the principal amounts or redemption prices

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specified in an administrative resolution to be adopted by the County Council of Harford County, Maryland and (II) to pay all interest accrued and to accrue on all of the maturities of the Refunded Bonds from their most recent interest payment dates to the respective maturity or redemption dates for such Refunded Bonds; provided that the aggregate principal amount of the Bonds shall in no event exceed ~~\$15,000,000~~ 17,000,000. The aggregate principal amount of the Bonds and the projects to be refunded, along with the maturities or portions thereof to be refunded, shall be determined by ~~administrative resolution adopted by the County Council~~ Executive Order issued by the County Executive of the County, based upon advice of the County's Financial Advisor, and the County Treasurer, and the Government Obligations purchased shall be verified by an independent certified public accountant.

(ii) The dates of payment of principal and interest of the Bonds shall be determined by ~~administrative resolution of the County Council~~ Executive Order issued by the County Executive of the County. The Bonds shall mature over a period not to exceed 20 years.

(f) The Bonds shall bear interest on amounts advanced and outstanding under the Loan Agreement at an annual rate of interest equal to 45% of the average of the Bond Buyer Revenue Bond Index for the calendar month preceding the Closing Date. Such interest shall be payable as determined by resolution adopted by administrative resolution of the County Council. The rate of interest shall not exceed 4% per annum.

(g) The Bonds shall be subject to prepayment and redemption to the extent permitted and in accordance with the Loan Agreement.

(h) The Bonds may be sold by the County to the Administration in one or more series of Bonds in such amounts in each series and at such times as may be determined in an executive order issued by the County Executive and provided for in separate Loan Agreements entered into by the County and the Administration.

**SECTION 4.** Be it further enacted by the County Council of Harford County, Maryland, (a) That the proceeds of the Bonds shall be advanced to the Treasurer of the County (the

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1 "Treasurer") on the Closing Date in accordance with the Loan Agreement and as described in this  
2 Section 4.

3 (b) A portion of the proceeds of the Bonds shall be retained by the Treasurer  
4 to be applied to pay costs, fees and expenses incurred in the sale of the Bonds (which funds are  
5 hereby authorized to be used for such purpose), to the extent such costs, fees and expenses are  
6 not paid from other sources.

7 (c) The remaining portion of such proceeds shall be immediately deposited by  
8 the Treasurer in trust with FMB Trust Company, National Association (which, effective June 28,  
9 1999, will change its name to "Allfirst Trust Company, National Association"), as escrow  
10 deposit agent (the "Escrow Deposit Agent") in a trust fund to be established in the name of the  
11 County (the "Escrow Deposit Fund") pursuant to an Escrow Deposit Agreement to be entered  
12 into between the County and the Escrow Deposit Agent (the "Escrow Deposit Agreement"), in  
13 substantially the form attached hereto as Exhibit D and made a part thereof, which shall be  
14 segregated to represent each of the Outstanding Bonds set forth in Exhibit A.

15 (d) The Escrow Deposit Agent shall apply all or part of the funds deposited  
16 with it by the Treasurer pursuant to subsection (b) of this Section 4 to the purchase of direct  
17 obligations of, or obligations the timely payment of the principal of and interest on which is  
18 unconditionally guaranteed by, the United States of America (hereinafter referred to as  
19 "Government Obligations"), the principal of and interest on which will be sufficient, together  
20 with any cash not so invested and without reinvestment, to pay in a timely manner the principal  
21 of the Refunded Bonds and the redemption premium, if any, and interest accrued and to accrue  
22 thereon to the applicable dates of maturity or redemption thereof. As the Government  
23 Obligations in the Escrow Deposit Fund pay interest and mature, the moneys so derived shall be  
24 held in the Escrow Deposit Fund and applied to the payment of the principal of the Refunded  
25 Bonds and the redemption premium, if any, and interest accrued and to accrue thereon to the  
26 applicable dates of maturity or redemption thereof.

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1        (e) Notwithstanding the foregoing, the proceeds of the Bonds shall be disbursed  
2        pursuant to the MWOFA Act, the Escrow Deposit Agreement and the Loan Agreement

3        **SECTION 5. Be it further enacted by the County Council of Harford County,**  
4        **Maryland,** That for the purpose of paying the principal of and interest on the Bonds when due as  
5        the same shall become payable, certain revenues and fees of the water and sewer system of the  
6        County including area connection charges, special assessments, user surcharges, system  
7        development fees, certain depreciation reserves relating to depreciation of the water and sewer  
8        systems, a portion of the recordation tax received by the County as provided in Resolution No. 21-  
9        82 adopted by the County Council of Harford County, Maryland on May 11, 1982 and earnings on  
10       the above described funds ("Water and Sewer Revenues") subject to prior pledges, shall be used to  
11       pay the principal of and interest on the Bonds. In addition, to the extent the Water and Sewer  
12       Revenues are insufficient to pay the principal of and interest on the Bonds, there is hereby levied  
13       and there shall hereafter be levied in each fiscal year that any portion of any of the Bonds is  
14       outstanding, ad valorem taxes on real and tangible personal property and intangible property subject  
15       to taxation by the County without limitation of rate or amount and, in addition, upon such other  
16       intangible property as may be subject to taxation by the County within limitations prescribed by  
17       law, in an amount sufficient to pay the principal of and interest on the Bonds payable during the  
18       succeeding year until the entire principal amount of the Bonds shall mature and be redeemed; and  
19       the full faith and credit and the unlimited taxing power of the County are hereby irrevocably  
20       pledged to the punctual payment of the principal of and interest on the Bonds as and when the same  
21       respectively become due and payable.

22       **SECTION 6. Be it further enacted by the County Council of Harford County,**  
23       **Maryland,** That (a) the Bonds shall be signed by the County Executive of the County (the "County  
24       Executive") and by the Director of Administration by their manual or facsimile signatures, and the  
25       Bonds shall bear the corporate seal of the County, attested by the manual or facsimile signature of  
26       the Treasurer of the County (the "Treasurer"); and (b) the Loan Agreement and the Escrow Deposit

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1 Agreement shall be signed by the County Executive by his manual signature, and the Loan  
2 Agreement and the Escrow Deposit Agreement shall each bear the corporate seal of the County,  
3 attested by the manual signature of the Director of Administration. In the event that any officer  
4 whose signature shall appear on the Bonds, the Loan Agreement or the Escrow Deposit Agreement  
5 shall cease to be such officer before the delivery of the Bonds, the Loan Agreement or Escrow  
6 Deposit Agreement, as applicable, such signature shall nevertheless be valid and sufficient for all  
7 purposes, the same as if such officer had remained in office until delivery.

8       **SECTION 7. Be it further enacted by the County Council of Harford County,**  
9 **Maryland,** (a) That the County Executive is hereby authorized, prior to execution and delivery of  
10 the Bonds, the Loan Agreement and the Escrow Deposit Agreement, to make such changes or  
11 modifications in the forms thereof as may be required or deemed appropriate by him in order to  
12 accomplish the purpose of the transactions authorized by this Ordinance; provided that such  
13 changes shall be within the scope of the transactions authorized by this Ordinance; and the  
14 execution of the Bonds, the Loan Agreement and the Escrow Deposit Agreement by the County  
15 Executive shall be conclusive evidence of the approval by the County Executive of all changes or  
16 modifications in the form of the Bonds, the Loan Agreement and the Escrow Deposit Agreement  
17 and the due execution of the Bonds, the Loan Agreement and the Escrow Deposit Agreement on  
18 behalf of the County, and the Bonds, the Loan Agreement and the Escrow Deposit Agreement shall  
19 thereupon become binding upon the County in accordance with their respective terms.

20       (b) The officers of the County authorized to execute the Bonds, the Loan  
21 Agreement and the Escrow Deposit Agreement are expressly authorized to execute and deliver from  
22 time to time (1) such amendments to the Bonds, the Loan Agreement and the Escrow Deposit  
23 Agreement as shall be deemed necessary or appropriate by such officers to cure any defect or  
24 ambiguity in the Bonds or the Loan Agreement, to add any provision thereto beneficial to the  
25 County or to comply with Administration practices and policy from time to time.

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1       (c) In the event the Bonds are issued by the County in such form that the interest  
2 on such Bonds is excludable from gross income of the holders thereof, the County Executive and  
3 the Treasurer of Harford County shall be the certifying officials for the County responsible for the  
4 execution and delivery on the date of the issuance of the Bonds of the Tax and Arbitrage Certificate  
5 of the County that complies with the requirements of Section 148 of the Internal Revenue Code of  
6 1986, as amended, and the applicable regulations thereunder. Such certifying officials are hereby  
7 authorized and directed to execute and deliver the Tax and Arbitrage Certificate to counsel  
8 rendering an opinion on the excludability from gross income of interest on the Bonds for purposes  
9 of federal income taxation on the date of issuance of the Bonds. The Tax and Arbitrage Certificate  
10 shall set out the reasonable expectation of the County as to relevant facts, estimates and  
11 circumstances relating to the use of the proceeds of the Bonds or of any moneys, securities or other  
12 obligations to the credit of any account of the County which may deemed to be bond proceeds under  
13 Section 148 or the arbitrage regulations. The County covenants with the Owner of the Bonds that  
14 the facts, estimates and circumstances set forth in the Tax and Arbitrage Certificate will be based on  
15 the County's reasonable expectations on the date of the issuance of the Bonds and will be, to the  
16 best of the certifying officials knowledge, true, correct and complete as of that date.

17       (d) In the event the Bonds are issued by the County in such form that the interest  
18 on such Bonds is excludable from gross income of the holders thereof, Harford County covenants  
19 and agrees with the Registered Owner of the Bonds that it will not make (to the extent that it  
20 exercises control or direction), or permit to be made, any use of the bond proceeds that would cause  
21 the Bond to be an arbitrage bond within the meaning of Section 148 and the arbitrage regulations.  
22 The County further covenants that it will comply with Section 148 of the Internal Revenue Code of  
23 1986, as amended, and the regulations thereunder which are applicable to the Bonds on the date of

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issuance of the Bonds and which may subsequently lawfully be made applicable to the Bonds. The County further covenants that it shall make such use of the proceeds of the Bonds, regulate the investment of the proceeds thereof, and take such other and further action as may be required to maintain the excludability of gross income for federal income tax purposes of the interest on the Bonds. All officers, employees and agents of the County are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bonds, as may be necessary or appropriate from time to time to comply with, or to evidence the County's compliance with the covenants set forth in this subsection.

**SECTION 8. Be it further enacted by the County Council of Harford County, Maryland,** That the County Executive, the Director of Administration, the Treasurer and other officials of the County are hereby authorized and empowered to do all such acts and things and to execute, acknowledge, seal and deliver such documents and certificates, as the County Executive may determine to be necessary to carry out and comply with the provisions of this Ordinance, subject to the limitations set forth in the MWQFA Act, the Refunding Act and in this Ordinance.

**SECTION 9. Be it further enacted by the County Council of Harford County, Maryland,** (a) That the Treasurer is hereby designated and appointed as bond registrar and paying agent for the Bonds (the "Bond Registrar"). The Bond Registrar shall maintain books of the County for the registration and transfer of the Bonds. The Bonds may not be registered to bearer. In addition, the County may from time to time, either prior to or following the issuance of the Bonds, designate and appoint the Treasurer of the County, any officer or employee of the County or one or more banks, trust companies, corporations or other financial institutions to act as a substitute or alternate bond registrar, paying agent or authenticating agent for the Bonds, and any such substitute or alternate shall be deemed to be the Bond Registrar or an alternate Bond Registrar for all purposes specified in the resolution appointing such substitute or alternate. Any such appointment shall be made by the County Council by resolution; and the exercise of such power of appointment, no matter how often, shall not be an exhaustion thereof.

**BILL NO. 99-28  
AS AMENDED**



**BILL NO. 99-28  
AS AMENDED**

1                   (b)     The Bonds shall be transferable upon the terms and conditions set forth  
2     therein.

3           **SECTION 10. Be it further enacted by the County Council of Harford County,**  
4 **Maryland,** That this Ordinance shall take effect on ~~the date of its enactment~~ on the date it becomes  
5 law.

6           **SECTION 11. Be it further enacted by the County Council of Harford County,**  
7 **Maryland,** That the issuance of Harford County, Maryland Water Quality Refunding Bonds,  
8 Series 1999, is hereby declared to be of an emergency measure affecting the health, safety and  
9 welfare of the citizens of Harford County and it is in the best interests of the County to issue and  
10 sell the foregoing Bonds as soon as possible, thereby achieving a savings of interest cost to the  
11 County.

12     EFFECTIVE:   July 13, 1999

**BILL NO. 99-28  
AS AMENDED**

**BILL NO. 99-28  
AS AMENDED**

**EXHIBIT A**

**BOND ISSUE**

<u>Name</u>	<u>Legislation</u>	<u>Original Aggregate Principal Amount</u>	<u>Outstanding Principal Amount</u>
\$45,550,000 Harford County, Maryland General Obligation Consolidated Improvement Bonds, Series 1992	Bill No. 92-15 Bill No. 92-44 Bill No. 92-45 Bill No. 92-46 Resolution 25-92	\$45,550,000	\$21,914,998.68
\$53,725,000 Harford County Maryland Consolidated Public Improvement and Refunding Bonds, Series 1993	Bill No. 93-34 Bill No. 93-36 Resolution 13-93	37,610,000 (Ref)* 16,115,000 (Gen Obl)	13,105,000
\$37,850,000 Harford County Consolidated Public Improvement Bonds, Series 1996	Bill No. 94-38 Bill No. 94-39 Bill No. 94-29 Resolution No. 3-96	\$37,850,000	32,850,000
\$41,325,000 Harford County, Maryland Consolidated Public Improvement Bonds, Series 1997	Bill No. 96-23 Bill No. 97-24 Bill No. 97-42 Bill No. 97-43 Resolution No. 30-97	\$41,325,000	39,025,000

\*Refunding portion of bond issue will not be refunded.

**BILL NO. 99-28  
AS AMENDED**

# BILL NO. 99-28 AS AMENDED

## EXHIBIT B

### PROJECTS FINANCED

<u>Project Description</u>	<u>Bill No.</u>	<u>Project No.</u>	<u>Original Amount</u>	<u>Revised Amount</u>	<u>Revision Legislation</u>
Bush Creek Pump Station Upgrade	92-46	S936459	70,000	700,356	96-34
Winters Run Parallel	92-46	S886438	1,000,000	631,000	95-67
Unanticipated Construction	92-46	S946447	97,000	97,000 *	
Winters Run Pumping Station	92-46	S886437	2,522,000	2,522,000	
Bynum Run Parallel	92-46	S916458	900,000	0	93-74
Sewer Petitions	92-46	S931000	200,000	354	94-09 94-35 96-34
Route 1 - Commercial Corridor Sewer Petition	92-46	S926441	7,279,000	7,253,090	95-67 96-34 96-61
Plumtree Pumping Station	92-46	S896483	300,000	300,000	
Joppatowne Standby Electric	92-46	S897010	250,000	250,000	
Bill Bass Upgrade		S926508	0	241,931	93-22
Joppatowne WWTP Rehab.		S937012	0	1,184,108	93-22 93-74 96-34
Pump Station Improvements		S886455	0	40,000	94-25
Sewer P.S. Scada System		S946544	0	398,000 *	96-34
Underwood Lane Sewer		S946547	0	88,200 *	94-09
Upper Lake Fanny Petition		S946553	0	60,000	94-35
1992 Bonds			12,618,000	13,766,039	
Tollgate Landfill Closure		D935606	5,590,000	4,565,000 *	94-91 94-92 95-22
1993 Bonds			5,590,000	4,565,000	
Bush Creek P.S. Upgrade	94-39	S936459	3,300,000	3,314,032	96-34
Upper Lake Fanny Sewer Petition	94-39	S946553	560,000	692,000	98-13
Sewer Petitions	94-39	S960004	200,000	15,746	96-34 98-13
Bynum Run Parallel	94-39	S916458	1,200,000	1,200,000	
Bynum Run Parallel	95-29	S916458	320,000	320,000	
Sewer Rehab. - Infiltration / Inflow	95-29	S886440	150,000	84,522	96-34
Pump Station Improvements	95-29	S966543	150,000	150,000	
Replacement of Supervisory Control and Data Acquisition System	95-29	S946544	1,025,000	1,025,000	
Sewer Petitions	95-29	S960004	200,000	0	96-34 96-40
Winters Run Parallel - Phase I	95-29	S966438	640,000	640,000	
Old Emmorton Rd Sewer Petition		S976559	0	174,021	96-40
Underwood Lane Sewer		S946547	0	104,700	96-34
1996 Bonds			7,745,000	7,720,021	
Bynum Run Parallel	96-24	S916458	1,870,000	1,870,000	

# BILL NO. 99-28 AS AMENDED

**BILL NO. 99-28****AS AMENDED**

Pump Station Improvements	96-24	S970007	150,000	150,000
Sewer Petitions	96-24	S970008	200,000	200,000
Winters Run Parallel Phase II	96-24	S966438	4,000,000	4,000,000
Bynum Run Parallel	97-43	S916458	380,000	380,000
Pump Station Improvements	97-43	S986579	290,000	290,000
Sewer Petitions	97-43	S986580	200,000	200,000
Sod Run Interceptor Parallel	97-43	S986581	250,000	250,000
Unanticipated Construction	97-43	S986578	100,000	100,000
Bynum Run Sewer	97-43	S986582	390,000	390,000
1997 Bonds			7,830,000	7,830,000
Total Bonds			33,783,000	33,881,060

\*The bond proceeds for these projects were reduced as follows: S946447 - \$1,321; S946544 - \$75,698; S946547 - \$88,200; and D935606 - \$200,539 to reflect bond proceeds currently unavailable.

**BILL NO. 99-28****AS AMENDED**

# Harford County, Maryland Water Quality Refunding Bonds, Series 1999

Date	Bond Principal Maturities to be Refunded						1997 Bonds	1997 Int. Rate	Grand Total
	1992 Bonds	1992 Int. Rate	1993 Bonds	1993 Int. Rate	1996 Bonds	1996 Int. Rate			
12/01/1999			57,898.40	4.40%					57,898.44
12/01/2000			248,019.20	4.40%					248,019.24
03/01/2001					374,032.00	5.00%			374,032.05
12/01/2001			260,160.00	4.40%					260,160.04
12/01/2002			272,300.80	4.40%					272,300.84
03/01/2003					600,000.00	5.125%			600,000.05
12/01/2003			284,441.60	4.40%					284,441.64
03/01/2004					600,000.00	5.125%			600,000.05
12/01/2004			296,582.40	4.40%					296,582.44
03/01/2005					600,000.00	5.125%			600,000.05
12/01/2005			310,457.60	4.50%					310,457.65
03/01/2006					600,000.00	5.50%			600,000.06
12/01/2006			324,332.80	4.65%					324,332.85
12/01/2007			339,942.40	4.75%			758,266.00	5.50%	1,098,208.45
09/01/2008	560,682.07	5.75%							560,682.13
12/01/2008			357,286.40	4.80%			895,000.00	5.50%	1,252,286.45
09/01/2009	707,692.07	5.80%							707,692.13
12/01/2009			374,630.40	4.80%			895,000.00	5.50%	1,269,630.45
03/01/2010					495,000.00	5.00%			495,000.05
09/01/2010	626,812.93	5.80%							626,812.99
12/01/2010			393,708.80	4.90%					393,708.85
03/01/2011					495,000.00	5.00%			495,000.05
09/01/2011	626,812.93	5.90%							626,812.99
12/01/2011			412,787.20	4.90%					412,787.25
03/01/2012					495,000.00	5.00%			495,000.05
12/01/2012			431,913.00	4.90%					431,913.05
03/01/2013					400,000.00	5.00%			400,000.05
03/01/2014					400,000.00	5.00%			400,000.05
03/01/2015					400,000.00	5.00%			400,000.05
03/01/2016					400,000.00	5.00%			400,000.05
Total	2,522,000.00		4,364,461.00		5,859,032.00		2,548,266.00		15,293,759.00

1992 Bond Project to be refunded: Winters Run Pumping Station \$2,522,000

1993 Bond Project to be refunded: Tollgate Landfill \$4,364,461

1996 Bond Projects to be refunded: Bush Creek Pumping Station \$3,314,032;

Bynum Run Parallel \$1,520,000; and Sewer P.S. Scada System \$1,025,000

1997 Bond Projects to be refunded: Bynum Run Parallel \$444,263 and

Winters Run Parallel \$2,104,003

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## **LOAN AGREEMENT**

By and Between

**MARYLAND WATER QUALITY  
FINANCING ADMINISTRATION**

and

**"Insert Name of Entity"**

Dated as of \_\_\_\_\_, 1999

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## LOAN AGREEMENT

**THIS LOAN AGREEMENT**, made this \_\_\_\_\_ day of \_\_\_\_\_, 1999 between the **MARYLAND WATER QUALITY FINANCING ADMINISTRATION** (the "Administration"), a unit of the Department of the Environment (the "Department") of the State of Maryland (the "State"), and **"INSERT NAME OF ENTITY"**, a \_\_\_\_\_ of the State (the "Borrower").

### RECITALS

Title VI of the Federal Water Pollution Control Act (commonly known as the "Clean Water Act"), as amended by the Water Quality Act of 1987 ("Title VI"), authorizes the Environmental Protection Agency ("EPA") to award grants to qualifying States to establish and capitalize State water pollution control revolving funds ("SRFs") for the purpose of providing loans and certain other forms of financial assistance (but not grants) to finance, among other things, the construction and improvement of publicly-owned wastewater treatment facilities and the implementation of estuary conservation management plans and nonpoint source management programs.

As contemplated by Title VI, the General Assembly of the State at its 1988 session enacted the Maryland Water Quality Financing Administration Act, codified at Sections 9-1601 through 9-1622 of the Environment Article of the Annotated Code of Maryland, as amended (the "Act"), establishing an SRF designated the Maryland Water Quality Revolving Loan Fund (the "Fund") to be maintained and administered by the Administration. The Act authorizes the Administration, among other things, to make a loan from the Fund to a "local government" (as defined in the Act) for the purpose of financing or refinancing all or a portion of the cost of a "wastewater facility" project (as defined in the Act).

The Borrower, which is a "local government" within the meaning of the Act, has applied to the Administration for a loan from the Fund to assist in the financing or refinancing of a certain project or projects of the Borrower (the "Project," as defined herein) which constitutes a "wastewater facility" within the meaning of the Act. The Project is one designated for funding in an Intended Use Plan promulgated by the Administration in accordance with regulations issued by the EPA pursuant to Title VI, and the Project conforms to the applicable "county plan" adopted pursuant to the requirements of Subtitle 5 of Title 9 of the Environment Article of the Annotated Code of Maryland, as amended.

The Director of the Administration has determined that the making of a loan to the Borrower for the purpose of assisting the financing or refinancing of the Project, on the terms and conditions hereinafter set forth, is necessary and desirable in the public interest, will promote the health, safety and welfare of the inhabitants of the State and the United States by assisting in the prevention of pollution of the environment, and will further the purposes of Title VI and the Act.

The Act authorizes the Administration, subject to the prior approval of the Secretary of the Department and the Board of Public Works, to issue its revenue bonds for the purpose of



providing monies for deposit to the Fund. The Administration may issue and sell one or more series of such revenue bonds (the "Bonds") for the purpose of providing monies for deposit to the Fund in an amount sufficient, together with certain other monies expected to be available for that purpose, to enable the Administration to make, or reimburse the Administration for making, a loan to the Borrower and certain other entities to assist in the financing or refinancing of projects, all as contemplated by the Administration's Intended Use Plan. The revenues from this loan and such other loans, whether or not funded from the proceeds of Bonds, may be pledged by the Administration to secure Bonds.

**NOW THEREFORE**, in consideration of the mutual promises and covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and the Administration, each intending to be legally bound, hereby agree as follows:

## **ARTICLE I DEFINITIONS**

### **Section 1.01. Definitions.**

Unless specifically provided otherwise or the context otherwise requires, when used in this Agreement:

**"Act"** means the Maryland Water Quality Financing Administration Act, Sections 9-1601 through 9-1622 of the Environment Article, Annotated Code of Maryland, and all acts supplemental thereto or amendatory thereof.

**"Administration"** means the Maryland Water Quality Financing Administration, a unit of the Department of the Environment of the State, and its successors and assigns.

**"Administrative Fee"** means the fee payable by the Borrower pursuant to this Agreement for the general administrative services and other functions and expenses of the Administration.

**"Agreement"** means this Loan Agreement, including the Exhibits attached hereto and any amendments hereto.

**"Application"** means the application for the Loan submitted by the Borrower to the Administration, together with any amendments thereto.

**"Authorized Officer"** means, in the case of the Borrower, any person authorized by law or by a resolution of the governing body of the Borrower to perform any act or execute any document.

**"Board"** means the Board of Public Works of the State.

**"Bonds"** means any series of revenue bonds issued by the Administration under the Act.

**"Bond Counsel"** means a law firm acceptable to the Administration whose legal opinions are generally accepted by purchasers of municipal bonds.

**"Borrower"** means the local government (as defined in the Act) that is identified in the first paragraph of this Agreement, and its successors and assigns.

**"Business Day"** means a day other than a Saturday, Sunday, or day on which the offices of the Administration or commercial banks in the State are authorized or obligated to remain closed.

**"Change Orders"** means any amendments or modifications to any Plans and Specifications or any general construction contract for the Project.

**"Clean Water Act"** means the Water Pollution Control Act of 1972, PL 92-500, as amended, 33 U.S.C. 1251 et seq., and rules and regulations promulgated thereunder.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time, or any successor federal income tax statute or code, and the applicable regulations and rulings promulgated thereunder.

**"Default"** means an event or condition the occurrence of which would, with the lapse of time or the giving of notice or both, constitute an Event of Default.

**"Department"** means the Maryland Department of the Environment, and its successors.

**"Director"** means the Director of the Administration.

**"Eligible Project Costs"** means all those costs of the Project permitted by the Act to be funded by a loan from the Fund and which have been approved by the Director, including those costs related to refinancing of the Refinanced Debt.

**"EPA"** means the United States Environmental Protection Agency, and its successors.

**"Escrow Agreement"** means the agreement with respect to the repayment of the Refinanced Debt between the Borrower and an escrow agent to be in a form satisfactory to the Administration.

**"Event of Default"** means any occurrence or event specified in Section 4.01 hereof.

**"Fiscal Year"** means the period of 12 consecutive months commencing on July 1 in any calendar year and ending on June 30 of the succeeding calendar year.

**"Fund"** means the Maryland Water Quality Revolving Loan Fund.

**"Governmental Authority"** means the United States, the State of Maryland, or any of their political subdivisions, agencies, departments, commissions, boards, bureaus or instrumentalities, including any local authority having jurisdiction over the Project, and including EPA, the Department, the Board and the Administration.

**"Indenture"** means the indenture of trust, bond resolution or other trust agreement between the Administration and the Trustee, providing for the issuance of Bonds, as amended, modified or supplemented from time to time.

**"Independent Counsel"** means any attorney or attorneys duly admitted to practice law before the highest court of any state who have regularly engaged in the practice of law as their primary occupation for at least five years. Independent Counsel may also serve as Bond Counsel if it qualifies as Bond Counsel.

**"Independent Public Accountant"** means an individual, partnership or corporation engaged in the accounting profession, either entitled to practice, or having members or officers entitled to practice, as a certified public accountant under the laws of the State of Maryland and in fact independent.

**"Loan"** means the aggregate amounts which are advanced from time to time by the Administration to the Borrower pursuant to the terms and provisions of this Agreement.

**"Loan Closing Date"** means the date on which the Note is executed and delivered to the Administration.

**"Loan Commitment"** means that amount which the Administration is obligated to lend to the Borrower pursuant to the terms and provisions of this Agreement and subject to the satisfaction of the conditions set forth in this Agreement, as such amount may be adjusted as provided in this Agreement.

**"Loan Origination Fee"** means the non-refundable fee payable to the Administration on the Loan Closing Date by the Borrower from its own funds in an amount specified in Exhibit B hereof in consideration of the costs incurred by the Administration for administrative services, functions and other expenses associated with the closing of the Loan.

**"Loan Proceeds Questionnaire and Certificate"** means the Loan Proceeds Questionnaire and Certificate executed and provided by the Borrower in connection with the Loan, in form and substance satisfactory to the Administration.

**"Loan Year"** means the period beginning on the first February 1 on which principal of the Loan is payable and each February 1 thereafter and ending on the immediately succeeding January 31.

**"Note"** means the bond, note or other obligation executed and delivered by the Borrower to the Administration to evidence the Loan, such Note to be substantially in the form attached hereto as Exhibit F.

**"Plans and Specifications"** means the final plans and specifications for the construction of the Project prepared by the architect or engineer and approved by the Department.

**"Project"** means the project or projects of the Borrower described in Exhibit B to this Agreement.

**"Project Budget"** means the budget for the Project as set forth in Exhibit C to this Agreement, as revised in accordance with Section 2.02(d).

**"Refinanced Debt"** means the obligations to be refinanced with the Loan, as described in Exhibit B to this Agreement.

**"Related Financing"** means any bond, note, agreement or other instrument or transaction (other than this Agreement or the Note) pursuant to which the Borrower obtains or has obtained any monies that may be expended or have been expended to pay costs of the Project.

**"Requirement"** means any law, ordinance, code, order, rule or regulation of a Governmental Authority, including, without limitation, a condition set forth in a National Pollution Discharge Elimination System ("NPDES") permit or in a construction permit issued by the Department.

**"State"** means the State of Maryland.

**"Tax-Exempt Bonds"** means Bonds the interest on which is excludable from gross income for federal income tax purposes under the Code.

**"Trustee"** means the trustee for the Bonds.

#### **Section 1.02. Rules of Construction.**

Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) words importing the singular number include the plural number and words importing the plural number include the singular number;

(b) words of the masculine gender include correlative words of the feminine and neuter genders;

(c) words importing persons include any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or agency or political subdivision thereof;

(d) the terms "agree" and "agreement" shall include and mean "covenant", and all agreements contained in this Agreement are intended to constitute covenants and shall be enforceable as such;

(e) the headings and the Table of Contents set forth in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement or affect its meaning, construction or effect; and

(f) any reference to a particular Article or Section shall be to such Article or Section of this Agreement unless the context shall otherwise require.

## ARTICLE II REPRESENTATIONS AND COVENANTS OF BORROWER

### Section 2.01. Representations of Borrower.

The Borrower represents for the benefit of the Administration as follows:

(a) Corporate Organization and Authority. The Borrower:

(i) is a "local government" as defined in the Act; and

(ii) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the Project, to enter into this Agreement, to execute and deliver the Note, and to carry out and consummate all transactions contemplated by this Agreement.

(b) Full Disclosure. There is no fact that the Borrower has not disclosed to the Administration in writing that materially adversely affects or (so far as the Borrower can now foresee) that will materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note.

(c) Pending Litigation. There are no proceedings pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower in any court or before any Governmental Authority or arbitration board or tribunal that, if adversely determined, would materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower, or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note, and that have not been disclosed in writing to the Administration in the Application or otherwise.

(d) Borrowing Legal and Authorized. The consummation of the transactions provided for in this Agreement and the Note and compliance by the Borrower with the provisions of this Agreement and the Note:

(i) are within its powers and have been duly authorized by all necessary action on the part of the governing body of the Borrower; and

(ii) will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrances upon any property or assets of the Borrower pursuant to, any indenture, loan agreement or other instrument (other than this Agreement and the Note) to which the Borrower is a party or by which the Borrower may be bound, nor will such action result in any violation of the provisions of laws, ordinances, governmental rules, regulations or court orders to which the Borrower or its properties or operations is subject.

(e) No Defaults. No event has occurred and no condition exists that, upon execution of this Agreement and the Note or receipt of the Loan, would constitute a Default hereunder.

The Borrower is not in violation, and has not received notice of any claimed violation, of any term of any agreement or other instrument to which it is a party or by which it or its property may be bound, which violation would materially adversely affect the properties, activities, prospects or condition (financial or other) of the Borrower or the ability of the Borrower to make all payments due hereunder and otherwise perform its obligations under this Agreement and the Note, and that have not been disclosed in writing to the Administration in the Application or otherwise.

(f) Governmental Consent; Project Consistency.

(i) The Borrower has obtained all permits and approvals required to date by any Governmental Authority for the making and performance by the Borrower of its obligations under this Agreement and the Note or for the Project and the financing and refinancing thereof. No consent, approval or authorization of, or filing, registration or qualification with, any Governmental Authority that has not been obtained is required on the part of the Borrower as a condition to the execution and delivery of this Agreement and the Note or the consummation of any transaction herein contemplated.

(ii) The Project is consistent with (A) the local plan of the Borrower as contemplated under Section 5-7A-02 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended; (B) the State Economic Growth, Resource Protection, and Planning Policy established in Section 5-7A-01 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended; and (C) all applicable provisions of Subtitle 7B; "Priority Funding Areas" of Title 5 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended.

(g) No Conflicts. No member, officer, or employee of the Borrower, or its designees, or agents, no consultant, no member of the governing body of the Borrower or of any Governmental Authority, who exercises or has exercised any authority over the Project during such person's tenure, shall have any interest, direct or indirect, in any contract or subcontract, or its proceeds, in any activity, or benefit therefrom, which is part of the Project.

(h) Use of Proceeds. The Borrower will apply the proceeds of the Loan from the Administration as described in Exhibit B attached hereto and made a part hereof (i) to finance or refinance all or a portion of the Eligible Project Costs; and (ii) to reimburse the Borrower for all or a portion of the Eligible Project Costs paid or incurred prior to the date hereof in anticipation of reimbursement by the Administration (and subject to compliance with Section 2.02(l) of this Agreement). Except as provided in Sections 3.01 and 3.03(c) of this Agreement, before each and every advance of the proceeds of the Loan to the Borrower, the Borrower shall submit to the Administration a requisition meeting the requirements of Section 3.03 of this Agreement.

(i) Loan Closing Submissions. On or before the Loan Closing Date, the Borrower will cause to be delivered to the Administration each of the following items:

(i) an opinion of Independent Counsel, acceptable to the Administration, dated as of the Loan Closing Date, substantially in the form set forth in Exhibit D to this Agreement;

(ii) an opinion of Bond Counsel [who may rely, as to the validity of this Agreement, the Note and the Escrow Agreement, on the opinion of Independent Counsel referred to in (i)], dated as of the Loan Closing Date, and acceptable to the Administration, to the effect that (A) interest on the Loan and the Note will be excludable from gross income for purposes of federal income taxation and (B) interest on the Loan and the Note will not be included in the alternative minimum taxable income of individuals, corporations or other taxpayers as an enumerated item of tax preference or other specific adjustment;

(iii) fully executed counterparts of this Agreement, the Note, the Escrow Agreement and the Loan Proceeds Questionnaire and Certificate;

(iv) copies of the ordinance, resolution or other official action of the governing body of the Borrower authorizing the execution and delivery of this Agreement, the Note and the Escrow Agreement, certified by an appropriate officer of the Borrower;

(v) a certificate, dated as of the Loan Closing Date, signed by an Authorized Officer of the Borrower and in form satisfactory to the Administration, confirming the Borrower's obligations under and representations in the Loan Agreement and the Loan Proceeds Questionnaire and Certificate as of such date;

(vi) a verification report, prepared by a firm acceptable to the Administration, showing that the deposits made pursuant to the Escrow Agreement, together with the investment earnings thereon, will be sufficient to pay the debt service requirements on the Refinanced Debt as provided in the Escrow Agreement;

(vii) if the Refinanced Debt consists of revenue bonds; an opinion of Independent Counsel, acceptable to the Administration, dated as of the Loan Closing Date, to the effect that the Refinanced Debt will be defeased, or legally discharged, as of the Loan Closing Date; and

(viii) a requisition in an amount not less than the lesser of 5% of the Loan Commitment or \$50,000 for (i) reimbursement to the Borrower of Eligible Project Costs together with paid invoices supporting such reimbursement or (ii) payment to third-parties of currently due and payable invoices for Eligible Project Costs or (iii) a combination of (i) and (ii); and

(ix) such other certificates, documents, opinions and information as the Administration may require.

## Section 2.02. Particular Covenants of the Borrower.

(a) Maintenance of Project; Insurance. The Borrower shall (i) keep, operate and maintain, or cause to be kept, operated and maintained, the Project in good working order, condition and repair; (ii) make or cause to be made all needed and proper replacements to the Project so that the Project will at all times be in good operating condition, fit and proper for the purposes for which it was originally erected or installed; (iii) not permit any waste of the Project; (iv) observe and comply with, or cause to be observed and complied with, all Requirements; and (v) operate, or cause to be operated, the Project in the manner in which similar projects are

operated by persons operating a first-class facility of a similar nature. The Borrower shall maintain or cause to be maintained at its sole cost and expense insurance with respect to the Project, both during its construction and thereafter, against such casualties and contingencies and in such amounts as are customarily maintained by governmental entities similarly situated and as are consistent with sound governmental practice.

(b) Sale or Disposition of Project. The Borrower reasonably expects that no portion of the Project will be sold prior to the final maturity date of the Loan. In the event that the Borrower shall sell or otherwise dispose of any portion of the Project prior to the final maturity date of the Loan, the Borrower shall apply the net proceeds thereof to the prepayment of the Loan or as the Administration shall otherwise direct unless (i) the Borrower shall have obtained the prior written consent of the Administration to some other proposed application of such net proceeds and (ii) there shall have been delivered to the Administration an opinion of Bond Counsel to the effect that, in the opinion of such firm, such proposed application of such net proceeds will not adversely affect the tax-exempt status for federal income tax purposes of the interest on any Tax-Exempt Bonds applicable to the Project or the Note.

(c) Inspections: Information. The Borrower shall permit the Administration or its designee to examine, visit and inspect, at any and all reasonable times (including, without limitation, any time during which the Project is under construction or in operation), the property constituting the Project, to attend all construction progress meetings relating to the Project and to inspect and make copies of any accounts, books and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments and any other matters relating to the Project and the financing and refinancing thereof, and shall supply such reports and information as the Administration may reasonably require in connection therewith. Without limiting the generality of the foregoing, the Borrower shall keep and maintain any books, records, and other documents that may be required under applicable federal and State statutes, regulations, guidelines, rules and procedures now or hereafter applicable to loans made by the Administration from the Fund, and as may be reasonably necessary to reflect and disclose fully the amount and disposition of the Loan, the total cost of the activities paid for, in whole or in part, with the proceeds of the Loan, and the amount and nature of all investments related to such activities which are supplied or to be supplied by other sources. All such books, records and other documents shall be maintained at the offices of the Borrower, as specified on Exhibit B attached hereto, for inspection, copying, audit and examination at all reasonable times by any duly authorized representative of the Administration. All such books, records and other documents shall be maintained until the completion of an audit of the Project by the EPA or notification from the State or the EPA that no audit is required.

(d) Completion of the Project; Payment of Excess Costs of the Project. The Borrower shall proceed diligently to complete the Project in accordance with the Plans and Specifications, and in accordance with any requirements set forth in the construction and NPDES permits. The Borrower shall satisfy all applicable Requirements for operation of the Project by the completion of the Project, and shall commence operation of the Project promptly upon its completion. No substantial changes may be made to the Plans and Specifications, the general construction contract or the Project Budget, or in the construction of the Project without the prior written approval of the Administration in its discretion. The Borrower shall pay any amount required for the acquisition, construction and equipping of the Project in excess of the amount available to be



loaned to the Borrower hereunder. Upon the completion of the Project, the Borrower shall deliver to the Administration a certificate of the Borrower certifying that the Project was completed as of the date set forth in such certificate.

(e) Cancellation of Loan. As provided by Section 9-1606(e) of the Act, the Borrower acknowledges and agrees that its obligation to make the payments due hereunder and under the Note is cancelable only upon repayment in full of the Loan, and that neither the Administration, the Secretary of the Department, nor the Board is authorized to forgive the repayment of all or any portion of the Loan.

(f) Dedicated Source of Revenue. Pursuant to the Clean Water Act, the Borrower has established one or more dedicated sources of revenue for repayment of the Loan, as described in Exhibit E attached hereto as a part hereof.

(g) Indemnification. To the extent permitted by law, the Borrower releases the Administration, the Fund, the Department, the Board and the State from, agrees that the Administration, the Fund, the Department, the Board and the State shall not have any liability for, and agrees to protect, indemnify and save harmless the Administration, the Fund, the Department, the Board and the State from and against, any and all liabilities, suits, actions, claims, demands, losses, expenses and costs of every kind and nature incurred by, or asserted or imposed against, the Administration, the Fund, the Department, the Board or the State, as a result of or in connection with the Project or the financing or refinancing thereof. To the extent permitted by law, all money expended by the Administration, the Fund, the Department, the Board or the State as a result of such liabilities, suits, actions, claims, demands, losses, expenses or costs, together with interest at the rate provided in the Note from the date of such payment, shall constitute an additional indebtedness of the Borrower and shall be immediately and without notice due and payable by the Borrower to the Administration.

(h) Non-discrimination. The Borrower certifies that it does not discriminate, and covenants that it shall not discriminate, on the basis of (1) political or religious opinion or affiliation, marital status, race, color, creed or national origin, or (2) sex or age, except where sex or age constitutes a bona fide occupational qualification, or (3) the physical or mental handicap of a qualified handicapped individual. At such times as the Administration requests, the Borrower shall submit to the Administration information relating to the Borrower's operations, with regard to political or religious opinion or affiliation, marital status, physical or mental handicap, race, color, creed, sex, age, or national origin, on a form to be prescribed by the Administration.

(i) Compliance with Requirements. The Borrower acknowledges that the Loan and this Agreement are subject to, and the Borrower agrees to comply with, all Requirements applicable to the Project and the financing or refinancing thereof, including (without limiting the generality of the foregoing) the Clean Water Act, the Act, and all other applicable State and federal statutes and such rules, regulations, orders and procedural guidelines as may be promulgated from time to time by the EPA, the Board, the Department, the Administration, or other Governmental Authority.

(j) Annual Audit. Within 150 days of the end of each Fiscal Year, the Borrower shall cause financial statements of the Borrower to be prepared with respect to such Fiscal Year in accordance with generally accepted accounting principles, applicable to governmental units, consistently applied, which financial statements shall be audited by, and accompanied by a report of, an Independent Public Accountant. Such financial statements and report shall be delivered upon completion to the Administration.

(k) Bonds Not to Be Arbitrage Bonds. The Administration expects to deliver on each date of issuance of each series of Tax-Exempt Bonds a certificate (such certificate, as it may be amended and supplemented from time to time in accordance with the Indenture, being referred to herein as the "Section 148 Certificate") that complies with the requirements of Section 148 of the Code or applicable successor provisions ("Section 148") and that states the Administration's reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of such Tax-Exempt Bonds or of any monies, securities or other obligations on deposit to the credit of any of the funds and accounts created by the Indenture or this Agreement or otherwise that may be deemed to be proceeds of the Tax-Exempt Bonds within the meaning of Section 148 (collectively, "Bond Proceeds"). The Borrower covenants to provide, or cause to be provided, such facts and estimates as the Administration reasonably considers necessary to enable it to execute and deliver its Section 148 Certificate including (but not limited to) those updates required in the Loan Proceeds Questionnaire and Certificate. The Borrower further covenants that (i) such facts and estimates will be based on its reasonable expectations on the date of issuance of the Tax-Exempt Bonds and will be, to the best of the knowledge of the officers of the Borrower providing such facts and estimates, true, correct and complete as of that date, and (ii) the Borrower will make reasonable inquiries to ensure such truth, correctness and completeness.

The Borrower covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds that would cause any of the Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148. The Borrower further covenants that it will comply with those provisions of Section 148 that are applicable to the Tax-Exempt Bonds on the date of issuance of such Tax-Exempt Bonds and with those provisions of Section 148 that may subsequently be lawfully made applicable to such Bonds.

The Administration and the Borrower shall hold and invest Bond Proceeds within their control (if such proceeds are invested) in accordance with the expectations of the Administration set forth in the Section 148 Certificate. If the Administration is of the opinion upon receipt of advice of Bond Counsel that it is necessary further to restrict or limit the yield on the investment of any Bond Proceeds in order to avoid any of the Tax-Exempt Bonds being considered "arbitrage bonds" within the meaning of Section 148, the Borrower shall take such action as is necessary to restrict or limit the yield on such investment, irrespective of whether the Borrower is of the same or a different opinion. Upon the request of the Borrower and receipt of advice of Bond Counsel the Administration may, and upon receipt of an approving ruling from the Internal Revenue Service or a decision of a court of competent jurisdiction the Administration shall, take such action as is necessary to remove or modify a restriction or limitation on the yield on the investment of any Bond Proceeds that was formerly deemed necessary. The Administration shall incur no liability in connection with action as contemplated herein so long as the Administration acts in good faith.

The Administration contemplates and will use its best efforts to provide for the payment of rebate or penalties in lieu of rebate with respect to the Tax-Exempt Bonds pursuant to Section 148 from the proceeds of the Tax-Exempt Bonds or investment earnings thereon. However, in the event that funds from this source are inadequate to provide for any such payment of rebate or such penalties, the Borrower agrees to pay to the Administration the portion of the rebate or penalties with respect to any Tax-Exempt Bonds fairly allocable to the Loan (as reasonably determined by the Administration) upon written request of the Administration accompanied by an explanation of the method for allocating any such penalties or rebate.

In addition, the Borrower covenants that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the monies deemed to be proceeds of any other Tax-Exempt Bonds of the Administration that would cause any such Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148. The Borrower further covenants that it will comply with those provisions of Section 148 that are applicable to such other Tax-Exempt Bonds on the date of issuance of such Tax-Exempt Bonds and with those provisions of Section 148 that may subsequently be lawfully made applicable to such Tax-Exempt Bonds. The Borrower shall have no obligation under this paragraph unless advised of such in writing by the Administration.

(l) Compliance With Loan Proceeds Questionnaire and Certificate. Without otherwise limiting the covenants or representations set forth in this Agreement or in the Loan Proceeds Questionnaire and Certificate, the representations set forth in Paragraphs 3 through 9, inclusive, and Paragraphs 11 through 14, inclusive, of the Loan Proceeds Questionnaire and Certificate are hereby incorporated as continuing representations of the Borrower, except to the extent that the Administration shall receive an opinion from Bond Counsel to the effect that any variation from such representations shall not adversely affect the excludability of interest on any Tax-Exempt Bonds from gross income for federal income tax purposes. The Borrower shall not take or permit to be taken any action or actions which would cause any Tax-Exempt Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or which would otherwise cause interest on any Tax-Exempt Bonds to be includable in gross income for federal income tax purposes.

(m) Additional Disclosure Information. The Borrower agrees to provide the Administration with such information regarding the Borrower and its finances as the Administration may from time to time request. The Borrower further acknowledges that the Administration may issue one or more series of Bonds pursuant to the Indenture, and that any or all of such Bonds may be secured in part by repayments of the Borrower with respect to the Loan. The Borrower accordingly agrees to provide to the Administration such information regarding the Borrower and its finances as the Administration may from time to time request for inclusion in the official statements or other offering documents to be distributed in connection with the sale of any such Bonds or any annual disclosure document or other informational document prepared from time to time by the Administration to be made available to prospective purchasers or holders of any of such Bonds. The Borrower shall also furnish to the Administration at its request a certificate of an Authorized Officer of the Borrower to the effect that any information so provided or included contains no material inaccuracy or omission in light of the purposes for which such information is provided or included. The Borrower agrees to notify the Administration promptly in writing of (a) any changes in the condition or affairs of the

Borrower (financial or other) that would cause any information regarding the Borrower so provided or included in an official statement or any subsequent offering document, annual disclosure document or other informational document of the Administration that the Borrower has had an opportunity to review and certify as to its accuracy, to contain a material inaccuracy or omission in light of the purposes for which such information is so included, and (b) any event set forth in Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C), as such rule may be amended and supplemented.

(n) Related Financing. The Borrower agrees that the proceeds of any Related Financing shall be expended or have been expended to pay costs of the Project. The Borrower agrees to provide the Administration upon its request with such information as the Administration deems reasonably necessary to determine whether the Borrower is in compliance with the provisions of this Section 2.02(n).

### ARTICLE III

#### LOAN TO BORROWER; AMOUNTS PAYABLE; GENERAL AGREEMENTS

##### Section 3.01. The Loan.

Subject to the provisions of Sections 3.02, 3.03 and 3.08 hereof, the Administration hereby agrees to advance amounts under this Agreement to the Borrower, and the Borrower agrees to borrow and accept from the Administration amounts advanced under this Agreement, in an aggregate principal amount not to exceed the maximum amount of the Loan Commitment set forth on Exhibit B attached hereto. The Borrower hereby agrees to pay the Administration from its own funds on the Loan Closing Date a non-refundable Loan Origination Fee in the amount specified in Exhibit B hereof.

##### Section 3.02. Availability of Funds.

The Administration expects to have, and shall use its best efforts to obtain and maintain, funds in an amount sufficient to make advances to the Borrower in accordance with the "Construction Cash Draw Schedule" included in Exhibit C attached hereto. The Borrower recognizes, however, that the Administration is a governmental entity with limited financial resources and that the Administration's ability to make such advances may be adversely affected by events or circumstances beyond the Administration's control. The Borrower accordingly assumes the risk that monies may not be available to make advances of the Loan to the Borrower, and, in such event, the Borrower specifically agrees that the Administration shall have no obligation to lend any amounts to the Borrower in excess of the amount theretofore advanced to the Borrower.

**Section 3.03. Requisitions and Disbursements; Conditions Precedent; Interest During Construction.**

(a) Requisitions and Disbursements. Amounts shall be loaned from time to time to pay, or reimburse the Borrower for the payment of, Eligible Project Costs, upon receipt of requisitions of the Borrower. Each such requisition shall (i) state the names of the payees, (ii) describe in reasonable detail the purpose of each payment, (iii) state the amount of each payment (supported by appropriate paid invoices or other evidence satisfactory to the Administration that the amount requisitioned has been paid or has been incurred by the Borrower and is then due), (iv) state that the amount so requisitioned constitutes a part of the Eligible Project Costs and (v) state that no Default or Event of Default under this Agreement has occurred and is continuing; provided, that this section shall not apply to advances made or deemed to have been made as provided in Section 3.03(c) hereof. In no event shall the Administration be obligated to advance to the Borrower any amount so long as any Default or Event of Default under this Agreement shall have occurred and be continuing. The Administration shall not be required to advance monies on more than one day in each month, and the Administration shall not be required to advance monies for the Project sooner than, or in an amount greater than, the schedule of disbursements for the Project shown on the "Construction Cash Draw Schedule" included in Exhibit C attached hereto. The Administration may require the Borrower to submit requisitions in advance of each such disbursement date in such manner as shall be reasonably acceptable to the Administration.

(b) Conditions Precedent. Before making the first advance of Loan proceeds, the Administration shall receive the following in form and content satisfactory to the Administration:

(i) copies of the Plans and Specifications and of any Change Orders issued through the date of such advance, the general construction contract, and the Project Budget;

(ii) a survey showing the location of existing and proposed easements, rights-of-way and improvements, and the perimeter boundaries of the land upon which the Project will be located, if any Loan proceeds are to be used for acquisition of the land;

(iii) copies of all building permits, if any, pertaining to the Project;

(iv) cost breakdown in trade form showing all subcontracts which represent at least 10 percent of the costs of the Project, and relating use of the proceeds of the Loan thereto;

(v) a fully executed copy of any contract for the purchase of real property constituting a portion of the Eligible Project Costs described in Exhibit C; and

(vi) evidence satisfactory to the Administration that the conditions (if any) set forth in Exhibit A to this Agreement have been satisfied.

In addition, it shall be a condition precedent to the Administration's obligation to make any advance of Loan proceeds under this Agreement that no Default or Event of Default shall have occurred and be continuing at the time of any such advance.

(c) Interest During Construction. In the event that the Administration has consented to permit the Borrower to pay interest on the Loan from proceeds of the Loan during all or a portion of the period of time related to construction of the Project (as itemized in Exhibit C) ("Construction Period Interest"), the Administration shall on each February 1 and August 1 during such period advance to the Borrower an amount equal to the interest on the Loan due on such February 1 or August 1 and not theretofore paid by the Borrower. Any such amount of Construction Period Interest advanced by the Administration shall constitute part of the principal amount of the Loan hereunder immediately upon its advance to the Borrower in accordance with this paragraph. Notwithstanding the advance of any Construction Period Interest to the Borrower in accordance with this Section, the Borrower shall pay directly to the Administration the Administrative Fee on the dates and in the amounts set forth in Section 3.04(c), and no amounts shall be advanced under the Loan for the payment of the Administrative Fee.

#### Section 3.04. Amounts Payable; Late Charges; Administrative Fee

(a) Amounts Payable. The Borrower shall punctually repay the Loan in installments on the dates, in the amounts, and in the manner specified in the Note. The outstanding amount of the Loan shall bear interest at a rate per annum equal to the rate or rates of interest set forth in Exhibit B, and shall be payable in accordance with the amortization schedule as specified in Exhibit B attached hereto and more particularly set out in the Note (which amortization schedule is subject to adjustment in accordance with this Agreement and the Note). On or prior to the Loan Closing Date, the Borrower shall execute the Note to evidence such obligation. In addition, the Borrower shall pay to the Administration an Administrative Fee in accordance with paragraph (c) of this Section.

(b) Late Charges. In addition to the payments of principal and interest on the Loan required by paragraph (a) of this Section, the Borrower shall pay (i) a late charge for any payment of principal or interest on the Loan that is received later than the tenth day following its due date, in an amount equal to 5% of such payment, and (ii) interest on overdue installments of principal and (to the extent permitted by law) interest at a rate equal to the Default Rate set forth in Exhibit B.

(c) Administrative Fee.

(i) On the date specified in Exhibit B for the first payment of the Administrative Fee and on each August 1 thereafter that the Note remains outstanding and unpaid to and including the date of final maturity of the Note (each such date, an "Administrative Fee Payment Date"), the Borrower shall pay to the Administration an Administrative Fee. Subject to paragraph (iii) below, the Administrative Fee for any Administrative Fee Payment Date shall be the (A) Administrative Fee set forth in Exhibit B or (B) after any date on which the outstanding principal amount of the Loan Commitment is reduced by the Administration by a notice in writing to the Borrower in accordance with this Agreement (other than by reason of the repayment of the principal of the Loan) the Administrative Fee set forth in a notice from the Administration to the Borrower in connection with such reduction. Any adjustment of the Administrative Fee in accordance with the foregoing shall be prospective only, and the Administration shall in no event be obligated to refund any portion of any Administrative Fee payment theretofore received from the Borrower.

(ii) In prescribing the Administrative Fee for purposes of paragraph (i) above, the Administration shall employ the following formula, it being understood that any determinations as to the application of such formula shall be within the discretion of the Administration and any Administrative Fee Payment prescribed by the Administration in accordance with the foregoing shall be conclusive and binding upon the Administration and the Borrower: the Administrative Fee equals (A) the aggregate amount of all scheduled payments of principal of and interest on the Note, multiplied by the Percentage Rate (defined in paragraph (iii) below) then in effect, (B) divided by the total number of scheduled Administrative Fee Payment Dates. For example, if the aggregate amount of all scheduled payments of principal of and interest on the Note were \$5,000,000 and the Percentage Rate were 5%, and the total number of scheduled Administrative Fee Payment Dates were 21, the Administrative Fee would equal:

$$\frac{\$5,000,000 \times .05}{21} = \$11,904.76$$

(iii) The Percentage Rate for each Fiscal Year shall be fixed as a uniform rate for all borrowers receiving loans from the Fund in order to provide sufficient revenues to pay the expenses of the Administration, as approved in the operating budget of the State by the General Assembly of the State; provided, however, that in no event shall the Percentage Rate exceed five percent (5%). In each Fiscal Year the Administration shall review the Percentage Rate then in effect and adjust it for the immediately succeeding Fiscal Year to reflect its approved budget for the immediately succeeding Fiscal Year, a retainage of not more than ten percent (10%) for an operating reserve within the Administration's general account, and other factors as reasonably determined by the Secretary. No later than June 1 following the end of the Session of the General Assembly in each Fiscal Year, the Administration shall notify the Borrower of the newly established Percentage Rate, which shall be the Percentage Rate applicable to the immediately succeeding Fiscal Year, and of any change in the amount of the Administrative Fee payable by the Borrower in such Fiscal Year as a result of the application of such Percentage Rate.

### Section 3.05. Sources of Payment.

(a) Dedicated Revenues. In accordance with Section 2.02(f) hereof, the principal of and interest on the Note, and any other amounts due from time to time under this Agreement, shall be payable in the first instance from the dedicated source of revenues described in Exhibit E attached hereto.

(b) General Obligation. In addition, the Note constitutes a general obligation of the Borrower, to the payment of which the full faith and credit and taxing power of the Borrower are pledged.

(c) State Withholding. As further security for the payment of the Note and any other amounts due hereunder, the Borrower hereby pledges the following to the Administration and grants a security interest therein to the Administration: (i) as authorized by Section 9-1606(d) of the Act, the Borrower's share of any and all income tax revenues collected by the State from time to time that would otherwise be payable to the Borrower, and (ii) to the maximum extent permitted by law, any and all other tax revenues, grants, and other monies that the Borrower is or may from time to time be entitled to receive from the State or that may at any time be due from

the State, or any department, agency, or instrumentality of the State, to the Borrower. The Borrower further agrees that, upon the occurrence of an Event of Default, among other things, the State Comptroller and the State Treasurer may (i) withhold any such amounts that the Borrower is then or may thereafter be entitled to receive and (ii) at the direction of the Administration, apply the amounts so withheld to the payment of any amounts then due or thereafter becoming due hereunder (including, without limitation, payments under the Note) until the Borrower's obligations hereunder have been fully paid and discharged.

#### **Section 3.06. Unconditional Obligations.**

The obligations of the Borrower to make payments under the Note as and when due and all other payments required hereunder and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, and shall not be abated, rebated, set-off, reduced, abrogated, terminated, waived, diminished, postponed or otherwise modified in any manner or to any extent whatsoever, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws of the United States of America or of the State or any political subdivision of either or in the rules or regulations of any Governmental Authority, any failure of the Administration, the Department or the State to perform or observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with the Project, this Agreement, or otherwise or any rights of set-off, recoupment, abatement or counterclaim that the Borrower might otherwise have against the Administration, the Department or the State or any other party or parties; provided, however, that payments hereunder shall not constitute a waiver of any such rights.

#### **Section 3.07. Loan Commitment.**

The Borrower acknowledges and agrees that the monies attributable to the Borrower's Loan Commitment are the property of the Administration and are held by the Administration to provide for advances to be made to the Borrower in accordance with this Agreement. Without limiting the foregoing, the Borrower acknowledges and agrees that monies attributable to the Borrower's Loan Commitment may at the discretion of the Administration be pledged or applied to the payment of Bonds.

#### **Section 3.08. Reduction of Loan Commitment.**

The Loan Commitment is subject to reduction in accordance with the provisions of this Section 3.08.

(a) Any portion of the Loan Commitment not advanced to the Borrower under Section 3.03 of this Agreement at the later of (1) two years from the date of this Agreement and (2) the earlier of one year following (i) actual completion of construction of the Project or (ii) the estimated completion date specified on Exhibit B attached hereto, shall no longer be available to be advanced to the Borrower and the amount of the Loan Commitment shall be reduced by an



amount equal to the portion of the Loan Commitment not advanced, unless otherwise agreed to by the Administration in writing.

(b) The Administration may, by a notice in writing delivered to the Borrower, reduce the amount of the Loan Commitment if the Administration should for any reason determine that it will be unable to fund the full amount of the Loan Commitment (including, without limitation, a determination that the Eligible Project Costs to be paid with proceeds of the Loan are expected to be less than the maximum amount of the Loan Commitment), or if it determines that the Borrower is not proceeding satisfactorily and expeditiously with the Project in accordance with schedules and plans provided to the Administration, or if it determines that the Borrower is no longer able to make the certifications required under Section 3.03 in connection with the submission of requisitions. Such notice shall specify the reason for and the amount of the reduction.

(c) Any reduction in the amount of the Loan Commitment shall not affect the obligation of the Borrower to repay the Loan in accordance with the provisions of this Agreement and the Note.

(d) The Administration shall advise the Borrower in writing of any reduction in the amount of the Loan Commitment. In the event of any such reduction, the Borrower shall repay the Loan in accordance with such revised principal amortization schedule (prepared by applying such amount to reduce the installments of principal due under the Note in inverse order of payment, such that any such reduction is applied first to the last installment of principal due under the Note) as may be prescribed by the Administration in accordance with the provisions of the Note executed in connection therewith. The Administration may require, and the Borrower shall deliver, such certificates, documents, opinions and other evidence as the Administration may deem necessary or advisable in connection with any such reduction in the Loan Commitment. If a new Note is delivered in connection with any such reduction, the Administration shall cancel the Note initially delivered to the Administration by the Borrower pursuant to this Agreement.

### Section 3.09. Disclaimer of Warranties.

The Administration makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Project or any portion thereof or any other warranty with respect thereto. In no event shall the Administration be liable for any incidental, indirect, special or consequential damages in connection with or arising out of this Agreement or the Project or the existence, furnishing, functioning or use of the Project or any item or products or services provided for in this Agreement.

### Section 3.10. Prepayments.

The Loan shall be subject to mandatory prepayment, in whole or in part, as, when and to the extent required by the EPA's State Revolving Fund Program Regulations. Otherwise, the Loan may be prepaid by the Borrower, in whole or in part, only at such times and in such

amounts, and upon the payment by the Borrower of such prepayment premium or penalty, as the Director, in his or her discretion, may specify and approve.

#### Section 3.11. Assignment.

Neither this Agreement nor the Note may be assigned by the Borrower for any reason without the prior written consent of the Administration. The Administration may transfer, pledge or assign the Note and any or all rights or interests of the Administration under this Agreement without the prior consent of the Borrower.

### ARTICLE IV EVENTS OF DEFAULT AND REMEDIES

#### Section 4.01. Events of Default.

If any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default":

(a) failure by the Borrower to pay any amount required to be paid hereunder or under the Note when due, which failure shall continue for a period of 20 days;

(b) failure by the Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, other than as referred to in paragraph (a) of this Section, which failure shall continue for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the Administration, unless the Administration shall agree in writing to an extension of such time prior to its expiration; provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Administration will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Default is corrected;

(c) if (i) at any time any representation made by the Borrower in Section 2.01(f)(ii) is incorrect, or (ii) any other representation made by or on behalf of the Borrower contained in this Agreement, or in any instrument furnished in compliance with or with reference to this Agreement, the Loan Commitment or the Loan, is false or misleading in any material respect on the date on which such representation is made;

(d) if an order, judgment or decree is entered by a court of competent jurisdiction (i) appointing a receiver, trustee, or liquidator for the Borrower; (ii) granting relief in involuntary proceedings with respect to the Borrower under the federal bankruptcy act, or (iii) assuming custody or control of the Borrower under the provision of any law for the relief of debtors, and the order, judgment or decree is not set aside or stayed within 60 days from the date of entry of the order, judgment or decree; or

(e) if the Borrower (i) admits in writing its inability to pay its debts generally as they become due, (ii) commences voluntary proceedings in bankruptcy or seeking a composition of

indebtedness, (iii) makes an assignment for the benefit of its creditors, (iv) consents to the appointment of a receiver, or (v) consents to the assumption of custody or control of the Borrower by any court of competent jurisdiction under any law for the relief of debtors .

#### **Section 4.02. Notice of Default.**

The Borrower shall give the Administration prompt telephonic notice, followed by prompt written confirmation, of the occurrence of any event referred to in Section 4.01(d) or (e) hereof and of the occurrence of any other event or condition that constitutes a Default or an Event of Default at such time as any senior administrative or financial officer of the Borrower becomes aware of the existence thereof.

#### **Section 4.03. Remedies on Default.**

Whenever any Event of Default referred to in Section 4.01 hereof shall have happened and be continuing, the Administration shall have the right to take one or more of the following remedial steps:

(a) declare all amounts due hereunder (including, without limitation, payments under the Note) to be immediately due and payable, and upon notice to the Borrower the same shall become immediately due and payable by the Borrower without further notice or demand; and

(b) take whatever other action at law or in equity that may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce the performance and observance of any obligation, agreement or covenant of the Borrower hereunder.

#### **Section 4.04. Attorneys' Fees and Other Expenses.**

The Borrower shall on demand pay to the Administration the reasonable fees and expenses of attorneys and the Trustee and other reasonable expenses incurred in the collection of any sum due hereunder or in the enforcement of performance of any other obligations of the Borrower upon an Event of Default.

#### **Section 4.05. Application of Monies.**

Any monies collected by the Administration pursuant to Section 4.03 hereof shall be applied (a) first, to pay any attorneys' fees or other fees and expenses owed by the Borrower pursuant to Section 4.04 hereof, (b) second, to pay interest due on the Loan, (c) third, to pay principal due on the Loan, (d) fourth, to pay any other amounts due hereunder, and (e) fifth, to pay interest and principal on the Loan and other amounts payable hereunder as such amounts become due and payable.

#### **Section 4.06. No Remedy Exclusive; Waiver; Notice.**

No remedy herein conferred upon or reserved to the Administration is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Default or Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Administration to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article.

### **ARTICLE V**

#### **MISCELLANEOUS**

##### **Section 5.01. Notices.**

All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures and consents of any kind made pursuant to this Agreement shall be in writing. Any such communication shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower at the address specified on Exhibit B attached hereto and to the Administration at Maryland Water Quality Financing Administration, 2500 Broening Highway, Baltimore, Maryland 21224, Attention: Director.

##### **Section 5.02. Binding Effect.**

This Agreement shall inure to the benefit of and shall be binding upon the Administration and the Borrower and their respective successors and assigns.

##### **Section 5.03. Severability.**

In the event any provision of this Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

##### **Section 5.04. Execution in Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

#### **Section 5.05. Applicable Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.

#### **Section 5.06. Captions.**

The captions or headings in this Agreement are for convenience only and shall not in any way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

#### **Section 5.07. Further Assurances.**

The Borrower shall, at the request of the Administration, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements, certificates and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Agreement and the Note.

#### **Section 5.08. Entire Agreement.**

This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between the parties hereto with respect to the Loan. In the event of any inconsistency between the provisions of this Agreement and anything contained in the Application, the provisions of this Agreement shall prevail.

#### **Section 5.09. Amendment of this Agreement.**

This Agreement, or any part hereof, may be amended from time to time hereafter only if and to the extent permitted by the Indenture and by an instrument in writing jointly executed by the Administration and the Borrower.

#### **Section 5.10. Disclaimer of Relationships.**

The Borrower acknowledges that the obligation of the Administration is limited to making the Loan in the manner and on the terms set forth in this Agreement. Nothing in this Agreement nor any act of either the Administration or of the Borrower shall be deemed or construed by either of them, or by third persons, to create any relationship of third-party beneficiary, principal and agent, limited or general partnership, or joint venture, or of any association or relationship whatsoever involving the Borrower and the Administration.

#### **Section 5.11. Effective Date.**

The effective date of this Agreement shall be the date of the Administration's execution.

#### **Section 5.12. Term of this Agreement.**

Unless sooner terminated pursuant to Article IV of this Agreement, or by the mutual consent of the Borrower and the Administration, this Agreement shall continue and remain in full force and effect until the Loan, together with interest and all other sums due and owing in connection with this Agreement or the Loan, have been paid in full to the satisfaction of the Administration. Upon payment in full of the Loan together with interest and all other sums due and owing in connection with this Agreement or the Loan from any source whatsoever, this Agreement shall be terminated.

#### **Section 5.13. Delegation Not to Relieve Obligations.**

The delegation by the Borrower of the planning, construction or carrying out of the Project shall not relieve the Borrower of any obligations under this Agreement and any other documents executed in connection with the Loan.

#### **Section 5.14. Additional Terms.**

This Agreement shall also be subject to the additional terms, modifications and deletions, if any, set forth in Exhibit A hereto. To the extent that the provisions herein and in Exhibit A attached hereto are inconsistent, the provisions in Exhibit A shall control.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

WITNESS:

MARYLAND WATER QUALITY FINANCING  
ADMINISTRATION

\_\_\_\_\_  
Name:

Title:

\_\_\_\_\_  
Stephen M. Kraus

Director

ATTEST:

BORROWER:

\_\_\_\_\_  
Name:

Title:

By: \_\_\_\_\_ (SEAL)

Name:

Title:

Approved for form and legal sufficiency  
day of \_\_\_\_\_ 1999

Approved for form and legal sufficiency this \_\_\_\_  
this \_\_\_\_ day of \_\_\_\_\_, 1999

\_\_\_\_\_  
Local Attorney for  
Borrower

\_\_\_\_\_  
David R. Burke  
Assistant Attorney General

**EXHIBIT A**  
**to Loan Agreement**

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

**CONDITIONS TO INITIAL ADVANCE UNDER SECTION 3.03(b)(vi) OF LOAN AGREEMENT:**

**ADDITIONAL TERMS, MODIFICATIONS AND DELETIONS APPLICABLE TO LOAN AGREEMENT:**



**EXHIBIT B**  
**to Loan Agreement**

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

**DESCRIPTION OF THE LOAN**

- (1) Project Name:
- (2) Principal Amount of Loan Commitment: \$
- (3) Rate of Interest: %
- (4) Amortization Schedule:

(a) \_\_\_\_\_ years.

First Principal Payment Date:

(b) Level Principal \_\_\_\_\_; or

Level Debt Service \_\_\_\_\_; or

Other \_\_\_\_\_.

If "other", describe:

- (5) Annual Administrative Fee: \$ \_\_\_\_\_, beginning \_\_\_\_\_.
- (6) Estimated Completion Date of Project:
- (7) Default Rate: \_\_\_\_\_ %
- (8) Description of Project:
- (9) Description of Refinanced Debt:
- (10) Loan Origination Fee: \_\_\_\_\_

**EXHIBIT C**  
**to Loan Agreement**

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

**PROJECT BUDGET**

Breakdown of Eligible Project Costs:

A. Portion of Eligible Project Costs to be directly financed:

<u>Description</u>	<u>Allocated Amount of Loan</u>
--------------------	-------------------------------------

B. Portion of Eligible Project Costs, including costs related to the refinancing of the Refinanced Debt, which Borrower is refinancing, which the Borrower hereby certifies were paid or incurred prior to the date of the Agreement (and subject to compliance with Sections 2.02(l) and 3.03(a) of the Agreement):

<u>Description</u>	<u>Allocated Amount of Loan</u>
--------------------	-------------------------------------

C. Construction Cash Draw Schedule

OPINION OF BORROWER'S COUNSEL

[LETTERHEAD OF COUNSEL TO BORROWER]

[CLOSING DATE]

Maryland Water Quality  
Financing Administration  
2500 Broening Highway  
Baltimore, Maryland 21224

Ladies and Gentlemen:

We are counsel to [NAME OF BORROWER], a [body politic and corporate and a political subdivision] [municipal corporation] [other appropriate description] of the State of Maryland (the "Borrower") in connection with the loan (the "Loan") by Maryland Water Quality Financing Administration (the "Administration") to the Borrower of funds to finance all or a portion of the costs of a project (the "Project") described in Exhibit B to the Loan Agreement dated as of \_\_\_\_, 1999 (the "Agreement") by and between the Administration and the Borrower.

In this connection, we have reviewed such records, certificates, and other documents as we have considered necessary or appropriate for the purposes of this opinion, including, without limitation, the Agreement, the Borrower's Water Quality Bond, Series 1999, dated \_\_\_\_, 1999 (the "Note") and the Escrow Agreement dated \_\_\_\_ between the Borrower and \_\_\_\_ (the "Escrow Agreement"). The Agreement, the Note and the and the Escrow Agreement are referred to herein collectively as the "Loan Documents". Based on such review, and such other considerations of law and fact as we believe to be relevant, we are of the opinion that:

(a) The Borrower is a validly created and existing [body politic and corporate and a political subdivision] [municipal corporation] [other appropriate description] of the State of Maryland, possessing authority to acquire, construct and operate the Project and to enter into the Loan Documents and perform its obligations thereunder.

(b) The Borrower has duly authorized, executed and delivered the Loan Documents and, assuming due authorization, execution and delivery of the Agreement by the Administration, the Loan Documents constitute legal, valid and binding obligations of the Borrower enforceable in accordance with their respective terms.

(c) The Note is a general obligation of the Borrower to which its full faith and credit is pledged, payable if and to the extent not paid from other sources as described in the Agreement from ad valorem taxes, unlimited as to rate and amount, which the Borrower is empowered to levy on all real and tangible personal property within its corporate limits subject to assessment for unlimited taxation by the Borrower.

(d) The Loan Documents and the enforceability thereof are subject to bankruptcy, insolvency, moratorium, reorganization and other state and federal laws affecting the enforcement of creditors' rights and to general principles of equity.

(e) To the best of our knowledge after reasonable investigation, the Borrower has all necessary licenses, approvals and permits required to date under federal, state and local law to own, construct and acquire the Project.

(f) Neither the execution and delivery of the Loan Documents, the consummation of the transactions contemplated thereby, the acquisition and construction of the Project nor the fulfillment of or compliance with the terms and conditions of the Loan Documents conflicts with or results in a breach of or default under any of the terms, conditions or provisions of the charter or laws governing the Borrower (including any limit on indebtedness) or, to the best of our knowledge, any agreement, contract or other instrument, or law, ordinance, regulation, or judicial or other governmental order, to which the Borrower is now a party or by which the Borrower or its properties are otherwise subject or bound, and the Borrower is not otherwise in violation of any of the foregoing in a manner material to the transactions contemplated by the Loan Documents.

(g) To the best of our knowledge after reasonable investigation, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court, governmental agency or public board or body pending or threatened against or affecting the Borrower that, if adversely determined, would materially affect the ability of the Borrower to perform its obligations under the Loan Documents, which has not been disclosed in writing to the Administration.

We hereby authorize Piper & Marbury L.L.P., bond counsel to the Administration, to rely on this opinion as if we had addressed this opinion to them in addition to you.

Very truly yours,

**EXHIBIT E**  
**to Loan Agreement**

Borrower Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Project Name: \_\_\_\_\_

**DESCRIPTION OF DEDICATED REVENUES**

The identification of the dedicated source or sources of revenues above is intended to specify a source or sources of revenues available in sufficient amount to provide for the payment of the costs of operating and maintaining the Project as well as the payment of the costs of debt service of any borrowing incurred to finance the Project. The specification of a dedicated source or sources of revenues above is not intended to constitute an undertaking by the Borrower to pledge, segregate or otherwise set aside any specific funds of the Borrower with the expectation that such funds would be used to pay the debt service on the Loan.



Due  
[February 1]

Principal Amount

Due  
[February 1]

Principal Amount

If the Administration determines at any time to reduce the maximum amount of the Loan Commitment (as defined in the Loan Agreement) in accordance with Section 3.08 of the Loan Agreement, the Maximum Principal Amount shall be reduced accordingly and the Maximum Principal Amount as so reduced shall be amortized in accordance with Section 3.08 of the Loan Agreement. The Administration shall deliver, and the Borrower shall acknowledge in writing, a certificate setting forth such reamortized payment schedule, which shall be attached hereto and shall replace and supersede for all purposes the foregoing payment schedule. Any such reduction shall not affect the obligation of the Borrower to pay the principal of and interest on this bond as and when the same shall become due.

Notwithstanding the foregoing, all outstanding unpaid principal amounts advanced under the Loan Agreement, if not previously due hereunder, shall be due on that date which is 20 years after the date of completion of the Project (as defined in the Loan Agreement), as certified by the Borrower to the Administration pursuant to Section 2.02(d) of the Loan Agreement.

Interest due on the unpaid principal amounts advanced under the Loan Agreement shall accrue on the basis of a 30-day month, 360-day year from the date of the respective advances of such principal amount, and shall be paid on \_\_\_\_\_, 1999, and semiannually thereafter on the 1st day of \_\_\_\_\_ and \_\_\_\_\_ in each year until the principal amount hereof has been paid.

This bond is subject to prepayment only in accordance with Section 3.10 of the Loan Agreement.

Both the principal of and interest on this bond will be paid to the registered owner in lawful money of the United States of America, at the time of payment, and will be paid by electronic funds transfer, or by check or draft mailed (by depositing such check or draft, correctly addressed and postage prepaid, in the United States mails on or before the payment date) to the registered owner at such address as the registered owner may designate from time to time by a notice in writing delivered to the [INSERT BORROWER'S AUTHORIZED OFFICER].

This bond is issued pursuant to and in full conformity with the provisions of [INSERT BORROWER'S LOCAL ACT(S)] and the Maryland Water Quality Financing Administration Act (codified as Sections 9-1601 to 9-1622, inclusive, of the Environment Article of the Annotated Code of Maryland, as amended), and by virtue of due proceedings had and taken by the Borrower, particularly a resolution (numbered       ) adopted by [INSERT BORROWER'S AUTHORIZING ORDINANCE OR RESOLUTION] (collectively, the "Resolution").

This bond, together with the Loan Agreement, evidences the Loan (as defined in the Loan Agreement) to the Borrower from the Maryland Water Quality Financing Administration. In accordance with the Loan Agreement, the principal amount of the Loan, being the amount denominated as principal under this bond, is subject to reduction or adjustment by the Administration in accordance with the Loan Agreement.

The full faith and credit and unlimited taxing power of the Borrower are hereby irrevocably pledged to the prompt payment of the principal of and interest on this bond according to its terms, and the Borrower does hereby covenant and agree to pay the principal of and interest on this bond at the dates and in the manner prescribed herein.

This bond is transferable only after the first principal payment date as set forth above or the date upon which the Maximum Principal Amount has been borrowed, whichever is earlier, upon the books of the Borrower at the office of the [INSERT BORROWER'S AUTHORIZED OFFICERS] by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof, together with a written instrument of transfer satisfactory to the [INSERT BORROWER'S AUTHORIZED OFFICER], duly executed by the registered owner or his duly authorized attorney. The Borrower shall, within a reasonable time, issue in the name of the transferee a new registered bond or bonds, in such denominations as the Borrower shall by resolution approve, in an aggregate principal amount equal to the unpaid principal amount of the bond or bonds surrendered and with the same maturities and interest rate. If more than one bond is issued upon any such transfer, the installment of principal and interest to be paid on each such bond on each payment date shall be equal to the product of the following formula: the total installment due on each payment date multiplied by a fraction, the numerator of which shall be the principal amount of such bond and the denominator of which shall be the aggregate principal amount of bonds then outstanding and unpaid. The new bond or bonds shall be delivered to the transferee only after payment of any taxes on and any shipping or insurance expenses relating to such transfer. The Borrower may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland and the Resolution to exist, to have happened or to have been performed precedent to or in the issuance of this bond, exist, have happened and have been performed, and that the issuance of this bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution or statutes.



IN WITNESS WHEREOF, this bond has been executed by the manual signature of the [INSERT AUTHORIZED OFFICERS] and the seal of the Borrower has been affixed hereto, attested by the manual signature of the [INSERT AUTHORIZED OFFICER], all as of the      day of      , 1999.

(SEAL)

ATTEST:

\_\_\_\_\_  
[OFFICER]

By: \_\_\_\_\_  
[OFFICER]

ESCROW DEPOSIT AGREEMENT

Dated as of July \_\_, 1999

by and between

HARFORD COUNTY, MARYLAND

AND

ALLFIRST TRUST COMPANY, NATIONAL ASSOCIATION,  
Escrow Deposit Agent

\$ \_\_\_\_\_  
HARFORD COUNTY, MARYLAND  
WATER QUALITY REFUNDING  
SERIES 1999

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## ESCROW DEPOSIT AGREEMENT

**THIS ESCROW DEPOSIT AGREEMENT**, dated as of July \_\_, 1999, by and between HARFORD COUNTY, MARYLAND, a body politic and corporate and a political subdivision of the State of Maryland (the "County"); and ALLFIRST TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association duly organized and existing under the laws of the United States of America, as Escrow Deposit Agent (the "Escrow Deposit Agent") under this Escrow Deposit Agreement.

### RECITALS

A. The County, pursuant to Article 25A of the Annotated Code of Maryland, as amended ("Article 25A"), and Section 524 of the Harford County Charter (the "Charter"), has heretofore issued the Water and Sewer Bonds and Consolidated Public Improvement Bonds described in Exhibit A hereto (the "Outstanding Bonds"), which exhibit is incorporated herein by reference and made a part hereof. The original aggregate principal amount and the outstanding aggregate principal amount of each series of the Outstanding Bonds is listed in Exhibit A hereto. The public purposes for which the proceeds of each series of Outstanding Bonds were authorized to be spent, maximum amounts authorized to be spent for each such public purpose, and the probable average useful life of the projects financed with the proceeds of such series of Outstanding Bonds are specified in (or incorporated by reference into) the Bond Issue Authorization Ordinance (each, a "Bond Ordinance") for such series specified in Exhibit A hereto. (All terms defined in Exhibit A hereto shall have the meanings given such terms therein.) Without limiting the generality of the foregoing, a portion of the proceeds of each series of the Outstanding Bonds was used in the case of the \$44,325,000 Harford County, Maryland Consolidated Public Improvement Bonds, Series 1997 Bonds to refund notes issued for a portion of the cost of the payments described in Exhibit B, all as more particularly described in the Bond Ordinances. The County has identified the maturities and portions of maturities of the Outstanding Bonds listed in Exhibit B hereto (the "Refunded Bonds") as the Outstanding Bonds issued to finance or refinance certain costs of the Projects. (All terms defined in Exhibit B hereto shall have the meanings given such terms therein).

B. The County, pursuant to Article 25A of the Annotated Code of Maryland, as amended, the Harford County Charter, Section 24 of Article 31 of the Annotated Code of Maryland, as amended, various bond enabling laws of the County currently in force and effect, and in accordance with Council Bill No. 99-28, as amended, enacted and effective on July \_\_, 1999 (the "Ordinance") authorized, among other things, (a) the issuance of its general obligation bond in the principal amount of \$16,000,000 to be designated as the County's "Water Quality Refunding Bond, Series 1999" (the "Bond") in order to effect the refunding of the Refunded Bonds.

C. The County, pursuant to the Ordinance, has determined to provide for the refunding of the Refunded Bonds by depositing with the Escrow Deposit Agent immediately available funds sufficient to purchase direct non-callable obligations of, or non-callable, non-prepayable obligations, the full and timely payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America, the principal of and interest on which, together with any cash balance, will be sufficient to redeem the Refunded Bonds at par plus redemption premium on the redemption dates specified in Exhibit B hereto, and (iii) to pay all interest accrued and to

accrue on the Refunded Bonds from their most recent interest payment dates to the respective maturity or redemption dates.

NOW, THEREFORE, the County and the Escrow Deposit Agent, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, do hereby agree as follows:

## ARTICLE I DEFINITIONS

Section 1.01. Definitions. The following terms used in this Escrow Deposit Agreement shall have the meanings hereinafter provided for such terms, unless a different meaning clearly appears from the context:

"Bond Counsel" means Miles & Stockbridge P.C. and their successors and assigns.

"Bond Ordinance" means the Bond Issue Authorization Ordinance for each series of Outstanding Bonds specified in Exhibit A hereto.

"Bond" means the County's general obligation bond designated "Water Quality Refunding Bond, Series 1999" in the principal amount of \$16,000,000, authorized to be issued and sold pursuant to the Ordinance.

"Closing Date" means July \_\_, 1999, the date of delivery of the Bond.

"County" means Harford County, Maryland, a body politic and corporate and a political subdivision of the State of Maryland.

"County Council" means the County Council of Harford County, the legislative body of the County.

"County Executive" means the County Executive of the County.

"Escrow Deposit Agent" means Allfirst Trust Company, National Association, or any successor Escrow Deposit Agent appointed under the provisions of this Escrow Deposit Agreement.

"Escrow Deposit Agreement" means this Escrow Deposit Agreement dated as of the Closing Date between the County and the Escrow Deposit Agent, together with any and all Supplements thereto.

"Escrow Deposit Fund" means the fund so designated which is created and established by this Escrow Deposit Agreement.

"Escrowed Government Obligations" means Government Obligations on deposit from time to time to the credit of the Escrow Deposit Fund created and established by this Escrow Deposit Agreement.

"Government Obligations" means direct non-callable obligations of, or non-callable, non-prepayable obligations the full and timely payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America. The term "Government Obligations" does not include mutual funds or unit investment trusts that invest in such obligations.

"Independent Public Accountant" means an individual, partnership, corporation or other entity engaged in the accounting profession, either entitled to practice, or having members or officers entitled to practice, as a certified public accountant under the laws of any state or the District of Columbia, and in fact independent, designated by the County and qualified to pass upon those matters required by this Escrow Deposit Agreement to be passed upon by an Independent Public Accountant.

"Ordinance" means Council Bill No. 99-28, enacted and effective on July \_\_, 1999.

"Outstanding Bonds" means the Harford County, Maryland, Water and Sewer and Consolidated Public Improvement Bonds listed in Exhibit A hereto.

"Refunded Bonds" means, collectively, the Refunded 1992 Bonds, the Refunded 1993 Bonds, the Refunded 1996 Bonds and the Refunded 1997 Bonds.

"Rollover Certificates" means U. S. Treasury Certificates of Indebtedness – State and Local Government Series, which bear interest at \_\_\_\_%, and which are purchased after the Closing Date.

"Rollover Notes" means U. S. Treasury Notes – State and Local Government Series, which bear interest at \_\_\_\_%, and which are purchased after the Closing Date.

"SLG's" means United States Treasury Obligations, State and Local Government Series.

"Supplements" means all modifications, amendments, supplements and substitutions.

"Verification Report" means the Verification Report of \_\_\_\_\_ LLP dated \_\_\_\_\_, 1999, relating to the refunding of the Refunded Bonds.

Section 1.02. Terms. Certain terms used in this Escrow Deposit Agreement are defined in Exhibits A and B hereto and shall have the meanings given such terms therein.

## ARTICLE II ESCROW

Section 2.01. Receipt of Bond Ordinances, Ordinance, Specimen Outstanding Bonds and Verification Report. The Escrow Deposit Agent hereby acknowledges receipt of a copy of (a) the Bond Ordinance for each series of the Outstanding Bonds, (b) a copy of the Ordinance, all certified as being true and correct by the Administrator to the County Council and (c) a specimen 1992 Bond, 1993 Bond, 1996 Bond and 1997 Bond, and (d) a copy of the Verification Report.

Section 2.02. Establishment of Escrow Deposit Fund. There is hereby created and established with the Escrow Deposit Agent a special and irrevocable Escrow Deposit Fund designated as the "1999 Harford County, Maryland Water Quality Refunding Bond Escrow Deposit Fund", to be held in trust by the Escrow Deposit Agent separate and apart from other funds of the County and of the Escrow Deposit Agent.

Section 2.03. Deposit of Funds. (a) The County herewith deposits with the Escrow Deposit Agent immediately available funds aggregating \$16,000,000 to be applied solely as provided in this Escrow Deposit Agreement.

(b) The Escrow Deposit Agent will deposit such funds in the Escrow Deposit Fund.

(c) The County represents that all of such funds are derived from the proceeds of the Bond.

(d) The County further represents that such funds will be sufficient to purchase Government Obligations which will mature in principal amounts at such times and bear interest at a rate or rates so that sufficient moneys will be available from such maturing principal and interest and any cash balance to redeem the Refunded 1992 Bonds, the Refunded 1993 Bonds, the Refunded 1996 Bonds and the Refunded 1997 Bonds at par plus redemption premium on the redemption dates specified in Exhibit B hereto, and to pay all interest accrued and to accrue on all of the Refunded Bonds from their most recent interest payment dates to the respective maturity or redemption dates for such Refunded Bonds.

(e) The County acknowledges that it remains obligated to pay the principal or redemption price of and interest on the Refunded Bonds, in the event that the proceeds of such Government Obligations received by the Escrow Deposit Agent are insufficient to make any such payments as and when due and payable.

(f) The County shall establish with the Escrow Deposit Agent, separate Escrow Deposit Funds for each of the Outstanding Bonds described in Exhibit A.

Section 2.04. Deposit Irrevocable. The deposit of funds in the Escrow Deposit Fund shall constitute an irrevocable deposit of such funds for the equal and ratable benefit of the owners of all of the Refunded Bonds. The principal of the Escrowed Government Obligations and interest earned thereon, together with any cash balance, shall be held in escrow and shall be applied, as hereinafter set forth, solely to (i) the payment of the principal of and interest on the Refunded Bonds on the dates and in the amounts specified in Exhibit B hereto, and (ii) to the extent permitted in Section 2.05(f) and (g), payment to the County.

Section 2.05. Investments. (a) The Escrow Deposit Agent hereby acknowledges the creation and establishment of the Escrow Deposit Fund and acknowledges receipt of the sum described in Section 2.03 of this Escrow Deposit Agreement on the Closing Date. The Escrow Deposit Agent shall apply a portion of such funds to the purchase of the Government Obligations described in Exhibit C attached hereto and hold such Escrowed Government Obligations in the

Escrow Deposit Fund, and shall hold the remaining cash balance uninvested and in the Escrow Deposit Fund.

(b) Except as otherwise expressly provided in this Section 2.05 the Escrow Deposit Agent shall have no power or duty to invest any moneys held hereunder or to make any substitutions of Escrowed Government Obligations held hereunder.

(c) The Escrow Deposit Agent shall deposit, as received, all maturing principal of and interest on Escrowed Government Obligations to the credit of the Escrow Deposit Fund.

(d) (i) The Escrow Deposit Agent acknowledges that it must purchase Rollover Certificates and Rollover Notes on each of the dates listed in Exhibit C hereto on which Rollover Certificates or Rollover Notes are required to be purchased (each, a "Rollover Purchase Date"), each in the amount and having the maturity date listed in Exhibit C hereto and bearing interest at \_\_\_\_%.

(ii) The Escrow Deposit Agent further acknowledges that, in order to purchase such Rollover Certificates and Rollover Notes on the applicable Rollover Purchase Dates, it shall file with the U. S. Bureau of Public Debt within the then-applicable time limits (currently not less than seven nor more than 60 days), prior to each such Rollover Purchase Date, the forms attached hereto as Exhibit D, designated "Subscription for Purchase and Issue of U. S. Treasury Securities – State and Local Government Series" (or if such forms have been superseded as of any such dates, the then-applicable subscription forms relating to U. S. Treasury Securities – State and Local Government Series), in each case completed with the applicable principal amount on the first page (in two places) and with the applicable schedule (i.e. for certificates of indebtedness or notes, as the case may be) attached and completed with a \_\_\_\_% interest rate and the applicable principal amount (in two places), purchase date and maturity date.

(e) Upon written direction of the County Executive, any investment held in the Escrow Deposit Fund may be redeemed or sold prior to its maturity and the proceeds thereof invested in other Government Obligations, as specified in such written direction, provided that the County furnishes to the Escrow Deposit Agent (i) verification from an Independent Public Accountant satisfactory to the Escrow Deposit Agent that the principal and interest becoming due on such replacement Escrowed Government Obligations, together with any cash balance in the Escrow Deposit Fund, will provide the Escrow Deposit Agent with moneys which at all times will be sufficient without further reinvestment to make all required payments of the principal of and interest and redemption premium (if any) on the then unpaid Refunded Bonds and (ii) an opinion of Bond Counsel addressed to the County and the Escrow Deposit Agent to the effect that such transaction is in compliance with applicable law and will not adversely affect the exclusion of the interest payable on any of the Refunded Bonds from gross income for purposes of federal income taxation.

(f) The County hereby covenants that no part of the money or funds held at any time in the Escrow Deposit Fund shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause any of the Refunded Bonds to be "arbitrage



bonds" within the meaning of the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder.

(g) Any moneys remaining in the Escrow Deposit Fund on September \_\_, 2009, after providing for the payment in full of the interest on, principal of and applicable redemption premium (if any) with respect to the Refunded Bonds shall at the direction of the County be paid first to the Escrow Deposit Agent as payment of the fees and expenses described in Section 2.09, and second, to the County.

(h) The Escrow Deposit Agent shall maintain separate Escrow Deposit Funds for each of the Outstanding Bonds described in Exhibit A.

Section 2.06. Use of Funds and Payment of Refunded Bonds. The Escrow Deposit Agent shall pay from cash on hand in the Escrow Deposit Fund, in immediately available funds, to The Depository Trust Company ("DTC") or, if directed by the County, to the paying agent for the applicable issue of Outstanding Bonds, (A) on the applicable maturity or redemption date for such issue specified in Exhibit B hereto, a sum sufficient to pay the principal of and interest on the Refunded Bonds, and (B) on each interest payment date (as specified in Exhibit B hereto) prior thereto, a sum sufficient to pay the interest on such Refunded Bonds which is due and payable on such interest payment date.

In any case where any date of payment described hereinabove shall be a Saturday, Sunday or legal holiday observed by the County or the Escrow Deposit Agent, then payment of such funds need not be made on such date but may be made on the next succeeding day which is not a Saturday, Sunday or legal holiday observed by the County or the Escrow Deposit Agent, with the same force and effect as if made on the date described hereinabove.

Section 2.07. Pledges and Liens. The County hereby assigns and pledges to the Escrow Deposit Agent for the benefit of the owners of the Refunded Bonds, and grants to the Escrow Deposit Agent for the equal and ratable benefit of such owners a security interest in, (a) all funds on deposit in or credited to the Escrow Deposit Fund, and (b) the Escrowed Government Obligations therein and the interest income thereon, all for the equal and ratable benefit of the holders of the Refunded Bonds, until such funds, Escrowed Government Obligations and income are used and applied in accordance with this Escrow Deposit Agreement.

Section 2.08. Election to Redeem; Redemption. The County represents that it has irrevocably elected to redeem all of the maturities of the Refunded Bonds specified in Exhibit B at par plus premium (if any) on the redemption dates specified in Exhibit B hereto. The County hereby directs the Escrow Deposit Agent to mail and otherwise publish or deliver notices of redemption of all of the Refunded Bonds at the times and in the manner specified in the Bond Ordinance for each series of such Refunded Bonds.

Section 2.09. Fees and Expenses of Escrow Deposit Agent. Upon the execution and delivery of this Escrow Deposit Agreement, the County shall pay the Escrow Deposit Agent (a) on the Closing Date, a set-up fee in the amount of \$\_\_\_\_\_, (b) on the Closing Date and on each June 1 thereafter to and including \_\_\_\_\_, an annual fee of \$\_\_\_\_\_, (c) a charge of \$\_\_\_\_\_ for each purchase, sale, maturity or substitution of investments and for each

wire transfer, and (d) normal and customary expenses as incurred, including, without limitation, the cost of the publications, mailings and deliveries described in Section 2.08 and Section 2.12 hereof relating to the redemption and/or refunding, respectively, of the Refunded Bonds of each series, which expenses will be paid by the County directly upon receipt of a copy of a bill therefor from the Escrow Deposit Agent or, if paid by the Escrow Deposit Agent in its discretion, by reimbursement to the Escrow Deposit Agent. No other fees and expenses of the Escrow Deposit Agent are anticipated; however, if the Escrow Deposit Agent incurs any unusual or extraordinary expenses, or undertakes any unusual or extraordinary services, not anticipated at the time of the execution and delivery of this Escrow Deposit Agreement, the Escrow Deposit Agent may request payment of its reasonable fees and expenses in connection therewith from the County. The County agrees to pay such reasonable fees and expenses, but it may, without creating a default hereunder, contest in good faith the reasonableness of any of such fees and expenses. The Escrow Deposit Agent shall have no lien whatsoever upon any of the moneys in the Escrow Deposit Fund for the payment of its fees and expenses, except to the extent of its rights to excess moneys in the Escrow Deposit Fund as set forth in Section 2.05(g). The provisions of this Section 2.09 shall survive the termination and expiration of this Escrow Deposit Agreement.

Section 2.10. Liability and Duties of Escrow Deposit Agent.

(a) The Escrow Deposit Agent and its respective successors, assigns, agents and servants, absent negligence or willful misconduct, shall not be held to any personal liability whatsoever, in tort, contract or otherwise, in connection with the execution and delivery of this Escrow Deposit Agreement, the establishment of the Escrow Deposit Fund, the acceptance of the moneys deposited therein, the purchase of Escrowed Government Obligations, the retention or disposition of the Escrowed Government Obligations or the proceeds thereof, or any payment, transfer or other application of moneys or securities by the Escrow Deposit Agent in accordance with the provisions of this Escrow Deposit Agreement.

(b) This Escrow Deposit Agreement sets forth exclusively the duties of the Escrow Deposit Agent with respect to any and all matters pertinent hereto and no implied duties or obligations shall be read into this Escrow Deposit Agreement against the Escrow Deposit Agent. The Escrow Deposit Agent may act in reliance upon any instrument or signature believed by it to be genuine and may assume that any person purporting to give any writing, notice, advice or direction for or on behalf of the County in connection with the provisions hereof has been duly authorized to do so.

Section 2.11. Term. This Escrow Deposit Agreement shall become effective upon its execution and delivery and shall terminate when all the Refunded Bonds to be paid or redeemed and interest and redemption premiums (if any) due thereon have been paid and discharged in accordance herewith.

Section 2.12. Notice of Transaction. Within 60 days after the delivery of and payment for the Bond, the Escrow Deposit Agent shall cause a notice, substantially in the form set forth in Exhibit E attached hereto, to be published once in a newspaper of general circulation in the County and once in The Bond Buyer or a financial journal or daily newspaper of general circulation in the City and State of New York. The cost of such publications shall be paid by the County (either directly or by reimbursement to the Escrow Deposit Agent) pursuant to Section 2.09 hereof.

### ARTICLE III MISCELLANEOUS

Section 3.01. Entire Agreement. This Escrow Deposit Agreement constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 3.02. Section and Paragraph Headings. The County and the Escrow Deposit Agent agree that the section and paragraph headings herein have been prepared for convenience only and are not part of this Escrow Deposit Agreement and shall not be taken as an interpretation of any provision of this Escrow Deposit Agreement.

Section 3.03. Severability. If any clause, provision or Section of this Escrow Deposit Agreement is held illegal or invalid by any court, the invalidity of such clause, provision or Section shall not affect any of the remaining clauses, provisions or Sections hereof, and this Escrow Deposit Agreement shall be construed and enforced as if such illegal or invalid clause, provision or Section had not been contained herein. In case any agreement or obligation contained in this Escrow Deposit Agreement is held to be in violation of law, then such agreement or obligation shall be determined to be the agreement or obligation of the County or the Escrow Deposit Agent, as the case may be, only to the full extent permitted by law. The Escrow Deposit Agent shall notify Moody's Investors Service, Fitch IBCA, Inc. and Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. (each a "Rating Agency") at the addresses in Section 3.09(b) hereof in the event that any provision of this Escrow Deposit Agreement is severed.

Section 3.04. Maryland Law. This Escrow Deposit Agreement is executed and delivered with the intent that the laws of the State of Maryland shall govern.

Section 3.05. Removal or Resignation of Escrow Deposit Agent.

(a) The Escrow Deposit Agent may resign at any time upon not less than 60 days prior written notice to the County, and the Escrow Deposit Agent shall thereby become discharged from its trusts, duties and obligations hereunder. The Escrow Deposit Agent shall publish, not less than 45 days before such resignation is to take effect, at its own cost and expense, a notice of such resignation once in a newspaper of general circulation in the County and once in The Bond Buyer or a financial journal or daily newspaper of general circulation in the City and State of New York. Such resignation, however, shall take effect only upon the appointment of a successor Escrow Deposit Agent in accordance with the terms hereof, acceptance of such appointment by the successor Escrow Deposit Agent, and transfer of all assets held in the Escrow Deposit Fund to the successor Escrow Deposit Agent in accordance with subsection (e) below.

(b) The Escrow Deposit Agent may be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Escrow Deposit Agreement with respect to the duties and obligations of the Escrow Deposit Agent by any court of competent jurisdiction upon the application of the County or

the holders of not less than 10% in aggregate principal amount of each issue of the then-outstanding Refunded Bonds.

(c) If at any time hereafter the Escrow Deposit Agent shall resign, be removed or dissolved or otherwise become incapable of performing all of its duties hereunder, the County shall appoint a successor Escrow Deposit Agent to fill such vacancy as soon as practicable. In the event such successor is appointed for reasons other than the resignation of the Escrow Deposit Agent, the County at its own cost and expense shall publish a notice of any such appointment made by it once in a daily newspaper of general circulation in the County and once in The Bond Buyer or a financial journal or a daily newspaper of general circulation in the City and State of New York, and shall give notice of such appointment to each Rating Agency.

(d) Any successor Escrow Deposit Agent hereafter appointed shall be a commercial bank or trust company or national banking association (i) having a capital and surplus aggregating at least \$50,000,000 or a subsidiary bank or trust company whose capital and surplus, together with that of its parent bank, trust company or bank holding company, as the case may be, is at least \$50,000,000, if there be such a commercial bank or trust company or national banking association willing and able to accept the appointment on reasonable and customary terms, and (ii) authorized by law to perform all the duties of the Escrow Deposit Agent required by this Escrow Deposit Agreement.

(e) Any successor Escrow Deposit Agent appointed under the provisions of this Section shall execute, acknowledge and deliver to its predecessor and the County an instrument in writing accepting such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, immunities, powers, duties, obligations and trusts of its predecessor hereunder, with like effect as if originally appointed as Escrow Deposit Agent. However, the Escrow Deposit Agent then ceasing to act shall nevertheless, on request of the County or of such successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the rights, immunities, powers and trusts of such Escrow Deposit Agent and all the right, title and interest of such Escrow Deposit Agent in and to the Escrow Deposit Fund and any other property held by it hereunder, and shall pay over, assign and deliver to such successor all moneys and Escrowed Government Obligations on deposit in the Escrow Deposit Fund and any other properties subject to the trusts and conditions herein set forth.

(f) Any company into which the Escrow Deposit Agent may be merged or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Escrow Deposit Agent may sell or transfer all or substantially all of its corporate trust business shall be the successor to such Escrow Deposit Agent hereunder, without any further act, deed or conveyance, provided that such company shall be a commercial bank or trust company or national banking association qualified to be a successor to such Escrow Deposit Agent under the provisions of this Section.

Section 3.06. Security Agreement. The County executes this Escrow Deposit Agreement as a debtor under the Maryland Uniform Commercial Code and the Escrow Deposit Agent executes this Escrow Deposit Agreement as a secured party under the Maryland Uniform Commercial Code,

it being intended by the parties hereto that this Escrow Deposit Agreement shall constitute and be a security agreement under the laws of the State of Maryland.

Section 3.07. Representations of County. The County hereby represents that it (a) was duly created by and is in existence under the laws of the State of Maryland, and possesses the authority under the Ordinance to enter into the transactions contemplated by this Escrow Deposit Agreement, (b) is not in default under any of the provisions of the laws of the State of Maryland which would affect its existence or its power referred to in the preceding clause (a), and (c) has taken due and proper action to authorize the execution and delivery of this Escrow Deposit Agreement.

Section 3.08. Representations of Escrow Deposit Agent. The Escrow Deposit Agent hereby represents that it (a) has been duly organized, is validly existing, and is in good standing under the banking laws of the United States, (b) has the power and authority to act as Escrow Deposit Agent under this Escrow Deposit Agreement, and (c) may validly and legally perform the duties and obligations of the Escrow Deposit Agent under this Escrow Deposit Agreement.

Section 3.09. No Amendment.

(a) This Escrow Deposit Agreement may be amended for any purpose or revoked with the unanimous consent of the County, the Escrow Deposit Agent and the holders of 100% of the then-outstanding Refunded Bonds; provided, however, that, without the consent of the holders of such Refunded Bonds, this Escrow Deposit Agreement may be amended (i) for clarification purposes but only upon delivery to the Escrow Deposit Agent and the County of an opinion of Bond Counsel to the effect that such amendment will not have a material adverse effect on the interests of the holders of the Refunded Bonds affected thereby or the Bond and (ii) for the purpose of obtaining or maintaining ratings on the Refunded Bonds from Moody's Investors Service, Standard & Poor's Ratings Services or Fitch IBCA, Inc. which are distinguishable from the ratings on the County's general obligation debt because of this Escrow Deposit Agreement and identifying the Refunded Bonds as "refunded"; provided that, if any such rating agency shall have theretofore assigned such rating to the Refunded Bonds that is then in effect, no such amendment shall become effective until such rating agency shall have provided to the Escrow Deposit Agent written confirmation that such amendment will not adversely affect such rating.

(b) In the case of any revocation or amendment permitted by this Section, the Escrow Deposit Agent shall, prior to the effectiveness thereof, provide written notice and a copy of such proposed amendment or revocation to (i) Moody's Investors Service, Public Finance Rating Desk/Refunded Bonds, 99 Church Street, New York, New York 10007, (ii) Fitch IBCA, Inc., One State Street Plaza, New York, New York 10004, and (iii) Standard & Poor's Ratings Services, 25 Broadway, New York, New York 10004.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Deposit Agreement to be duly executed, sealed and delivered as of the day and year first written above.

HARFORD COUNTY, MARYLAND

(SEAL)

ATTEST:

By: \_\_\_\_\_  
James M. Harkins  
County Executive

\_\_\_\_\_  
John J. O'Neill, Jr.  
Director of Administration

ALLFIRST TRUST COMPANY, NATIONAL  
ASSOCIATION, as Escrow Deposit Agent

(SEAL)

ATTEST:

By: \_\_\_\_\_

\_\_\_\_\_

#7041128

HARFORD COUNTY BILL NO. 99-28 (as amended)

Brief Title) Water Quality Refunding Bonds, Series 1999

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

ENROLLED

James E. Massey Jr.  
Council Administrator

[Signature]  
President of the Council

Date 7-6-99

Date 7/6/99

BY THE COUNCIL

Read the third time.

Passed: LSD 99-21

Failed of Passage: \_\_\_\_\_

By Order

James E. Massey Jr.  
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 8th day of July, 1999 at 3:00 p.m.



James E. Massey Jr.  
Council Administrator

BY THE EXECUTIVE

COUNTY EXECUTIVE

APPROVED: Date July 13, 1999

BY THE COUNCIL

This Bill (No. 99-28, as amended), having been approved by the Executive and returned to the Council, becomes law on July 13, 1999.

James E. Massey Jr.  
Council Administrator

EFFECTIVE DATE: July 13, 1999